INTERNATIONAL DRUG ENFORCEMENT ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 5310

THE INTERNATIONAL DRUG TRAFFIC ENFORCEMENT ACT OF 1986

AUGUST 5, 1986

Serial 99–99

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
66-309 O WASHINGTON : 1987

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H781-15

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INTERNATIONAL DRUG ENFORCEMENT ACT

TUESDAY, AUGUST 5, 1986

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room B-318, Rayburn House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
THURSDAY, JULY 31, 1986

PRESS RELEASE #23
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
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THE HONORABLE DAN ROSTENKOWSKI (D., ILL.), CHAIRMAN, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES TIMETABLE FOR CONSIDERATION OF THE INTERNATIONAL DRUG TRAFFIC ENFORCEMENT ACT OF 1986

The Honorable Dan Rostenkowski, Chairman of the Committee on Ways and Means, U.S. House of Representatives, today announced an expedited timetable for consideration and action on the International Drug Traffic Enforcement Act of 1986. This legislation was introduced today by Chairman Rostenkowski and several cosponsors. It is being considered for inclusion in omnibus drug legislation which is being assembled by the House leadership for final House action in September.

The International Drug Traffic Enforcement Act contains major revisions to the customs laws in order to strengthen the drug enforcement and interdiction activities of the U.S. Customs Service. These amendments would add new penalties and reporting requirements to the Tariff Act, enable Customs to engage in undercover activities more freely, place new controls on vehicles or vessels arriving in the United States in order to deter smuggling, and expand the Customs Forfeiture Fund which is used to finance drug interdiction efforts.

The bill would also create greater incentives for countries to cooperate with the United States in eradicating drug crops and apprehending drug smugglers. The President would be required to deny most-favored-nation (MFN) treatment and other preferential tariff treatment to countries that are the source of illegal drugs if they refuse to cooperate in arresting illegal drug traffic.

In introducing this legislation, Chairman Rostenkowski noted:

> "Our borders have become open sieves through which the drug trade flows virtually unimpeded. It is now only possible for the Customs Service and other relevant agencies to apprehend a small portion of the narcotics entering the United States. A major part of the problem is that our current customs laws in this area date back to the 1930's. Penalties for failure to observe certain customs regulations are insignificant and many of the clearance procedures actually favor the drug smuggler. It is essential that we modernize these laws and give our customs officials the weapons to fight this insidious evil.

> "We must also do far more to attack drugs at the source. Pressure must be brought to bear on countries that tolerate or collaborate with illegal drug traffickers. The use of most-favored-nation and other tariff preferences such as the Generalized System of Preferences and the Caribbean Basin Initiative to secure greater cooperation is, in my judgment, the most effective and fairest means of securing such cooperation. Countries which benefit from drug trade should not expect preferential trade benefits, and inaction on the part of any country should be met with a firm response by our government."

The Subcommittee on Trade will hold a hearing on this legislation on Tuesday, August 5, 1986, in room B-318 Rayburn House Office Building, beginning at 10:00 a.m. Testimony will be received from invited witnesses only. The full Committee will hold its markup on Thursday, August 7, at a time and location to be announced later.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Any interested person or organization may file a written statement for inclusion in the printed record. Persons submitting written statements for the printed record of the hearing should submit at least six (6) copies by the close of business, Wednesday, August 6, 1986, to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public at the hearing, they may provide 100 additional copies for this purpose to the Subcommittee office, room 1136 Longworth House Office Building, before the hearing begins.

SEE ENCLOSED FORMATTING REQUIREMENTS.

* * * * * * * * * *

Chairman Gibbons. Good morning, ladies and gentlemen. This is a meeting of the Subcommittee on Trade of the Committee on Ways and Means, in which all members, of course, of the Ways and Means Committee have been invited. We are holding a hearing on H.R. 5310, the International Drug Traffic Enforcement Act. This is a very important piece of legislation introduced by Chairman Rostenkowski and by Mr. Rangel as well as a number of others of us, who are concerned about deterioration that the illicit drug impact is wreaking upon our country, particularly upon American youth.

H.R. 5310 will give the President additional necessary tools to work with foreign governments which are the source of imported narcotics to prevent their exportation to the United States, and would strengthen the hands of the Customs Service to interdict any important narcotics before they could damage this country. This bill is on a fast track, in order to meet the Speaker's deadline for pulling together the Comprehensive Omnibus Antidrug bill.

Mr. Rostenkowski has scheduled a full committee markup on this bill for Thursday, August 7.

Our first witness this morning is Mr. Charles B. Rangel. Mr. Rangel, as the ranking member of this committee, is chairman of the Select Committee on Narcotics Abuse and Control, and in this role he has played an important part in America's war against drugs.

Mr. Rangel, I know of your work; I have followed it for years and I applaud you for what you have done to increase the awareness of the problem, and we look forward to hearing you.

STATEMENT OF HON. CHARLES B. RANGEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, AND CHAIRMAN, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. Rangel. Thank you, Mr. Gibbons, and my chairman, for the way this bill was expedited. Certainly knowing how jealously you guard the jurisdiction of this committee, I want to really thank you for the personal hand that you had in making certain that these pieces of legislation come before our committee. I am proud, as chairman of the Select Committee on Narcotics, to see that when the leadership of the House made its call for the legislative committees to respond that our committee was among the first to come out to provide the tools in this war on this great threat to our national security.

Chief Justice Warren Burger has indicated to me, and has said publicly, that in his opinion the threat of narcotics is a greater threat to our national security than communism, and such a statement, coming from an outstanding national leader like that, at least should dramatically get the attention of the people who would think that this is a problem that can be confined or will go away.

I was pleased to see that the President of the United States indicated that his response yesterday in terms of a voluntary crusade against drugs was restrained, saying that this was only the first step, because with a war you need more than volunteers. You need professionals. You need resources. And you have to let the enemy know that you intend to win instead of taking the casualties that we have.

As you know, Mr. Chairman, for too many years and too many administrations foreign countries have been able to grow narcotics, whether it is marijuana, opium, or coca leaves, and do business with the United States without any fear that we would respond in any way. Unfortunately many of these fragile democracies have found themselves held hostage by corruption, by the drug traffickers, and have reached the point economically that the traffickers are providing more of a service to their people than the government itself can provide. So I really don't think, no matter what type of assistance we give, that we will be able to see any reduction in the production of these drugs, because the people are dependent on the money, and the governments are afraid to move forward.

However, I am confident that by developing a foreign policy and developing some type of an international strategy, that we will be able to help those nations who want to cooperate, and at the same time be able to withhold support from those nations that just ignore their international responsibilities.

We have to deal with demand. We have to deal with local law enforcement, but the one thing that is so frightening is our borders. That is where the Customs Service is involved, and that is where they have their responsibility. It has always frightened me to hear the Governors from the Gulf States say over and over that with all of the billions that we are putting in military preparedness, and all of the buildup that we have in order to deal with the Soviet threat, our borders are undefended. Governor White of Texas said if the Communists ever found out about DC-6's, then that would destroy all of our national defense effort, because daily they are able to penetrate our borders laden with drugs.

Our select committee, Mr. Chairman, went to San Diego to view the problems that we had on the borders, and I was amazed to see Mexicans lined up on the border waiting to just come right across at dusk, some with contraband, some just to reach these United States. The border is so bad that Commissioner von Raab testified before the select committee that it is like a sieve, and they were asking him to put his finger in the dike. Yet each time there is a request for Customs resources, the administration is cutting back, and each time my Congress, our Congress, has responded by saying no, not if we are going to protect our borders, and we have always tried to retore some of the manpower, some of the technology that is necessary.

Here again, what this legislation will do, at least in part, is to give some assistance to our Customs Commissioner. The Customs laws have not changed since 1930, and we would like to come forward to not only make this contribution but to let the Commissioner know, as well as other soldiers out there on the front line, that where the problem exists this Congress is prepared to respond to their needs and recognize that we are dealing with a $200 billion industry. The nickels and dimes that we throw out there in the long run are going to save the United States money, but more importantly protect our security.

This legislation is not dramatic. The bill requires all vessels to report their arrival into the United States immediately, rather than within 24 hours as presently required. It prohibits air-dropping of drugs at sea, establishes civil and criminal penalties for violations, and permits the forfeiture of aircraft and vessels used in connection with these violations. At the same time, the bill liberalizes the rules of forfeiture, so that Customs, without violating the appropriation procedures, would be able to take advantage of some of the properties that they forfeit.

It extends the Customs Forfeiture Fund for 5 years, increasing from $10 million to $20 million the amount that would be available for appropriation from the fund.

In addition to that, the bill incorporates legislation that I introduced last year, and certainly a measure that could not come before this committee without your support, to deny most-favored-nation treatment to products of any countries that refuse to cooperate with our efforts to eradicate drugs. Again, we have done this in the Caribbean Basin Initiative, and some people would say that the Congress is attempting to interfere with foreign policy. But a close reading of the legislation would clearly indicate that what we try to do is to give the President more tools to deal with these countries from a position of strength.

Enactment of title III of the bill would give our Nation an additional weapon to use against drugs. With the combination of this legislation coming out of the Ways and Means Committee, coupled with the education legislation that is coming out from Chairman Hawkins' committee, the law enforcement support that is coming out of the Judiciary Committee, and the legislation that is coming out of the Foreign Affairs Committee, we will give a package to the President of the United States to indicate that when he declares war, the Congress is prepared to provide the weapons and the resources that are necessary to win this war.

You come from a State, Mr. Chairman, that has been hit, and hit pretty hard by drugs. Your coastline is probably just as vulnerable as any other spot in the United States, and I do hope that in the years ahead that you and I will be able to say that whether we won the war or not, that we at least made our contribution toward that effort. I want to thank you not just for chairing and guiding this legislation out of committee but for your personal commitment which you have demonstrated over the months and years behind us.

[The prepared statement follows:]

STATEMENT OF

CHARLES B. RANGEL, CHAIRMAN
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. Chairman, I want to thank you for the opportunity to testify before your Subcommittee on H.R. 5310, the "International Drug Traffic Enforcement Act." At the outset, I want to commend your subcommittee for taking up this important legislation which will go a long way toward enhancing our Nation's efforts against the illicit drug trade. I was pleased to join with Chairman Rostenkowski, you and many other members of the Ways and Means Committee to introduce this bill last week.

Mr. Chairman, our nation is in the midst of a drug crisis. Chief Justice Warren Burger has characterized the narcotics threat to our country as more serious to our national security than the threat of communism.

Nowhere is this threat more apparent than at our borders. The Select Committee on Narcotics Abuse and Control, which I chair, estimates that 150 tons of cocaine, 12 tons of heroin, up to 60,000 tons of marijuana and 200 tons of hashish will be smuggled into the United States this year. At best, our drug enforcement agencies intercept only an estimated 10-15 percent of the illicit drug traffic destined for our shores.

The outlook for the future is not very reassuring. The drug pipelines to the United States are bursting, and we expect bumper crops of illicit narcotics in producing countries abroad again this year. On our study mission to Latin America last year the Select Committee found illicit coca cultivation to be virtually out of control. In the two years since we had visited Peru and Bolivia, illicit coca production grew from approximately 55,000 tons to 150,000 tons in each country. In Colombia, coca cultivation expanded from 15,000 hectares to 25,000 hectares. The drug threat, of course, comes not only from South America. Eradication efforts in the opium producing areas of Southeast and Southwest Asia are still not adequate, and heroin continues to flood our country.

Our borders are essentially defenseless against the onslaught of illegal drug smuggling. In hearings the Select Committee held earlier this year in Miami and on the southwest border, Federal law enforcement representatives testified that even if their resources are doubled they could not significantly reduce the availability of drugs in our country as long as foreign production and domestic demand continue to grow.

In March, U.S. Customs Commissioner William von Raab told our Committee that he would need "thousands and thousands" of additional officers just to police the drug traffic across our southwest border. Instead, the 1987 budget for Customs proposes to cut 770 positions, including 321 inspectors, our front-line defense against drug smugglers at the ports of entry. This on top of 1986 Gramm-Rudman cuts of 777 positions (265 inspectors).

Year after year, the Administration has claimed to be fighting a war on drugs while proposing massive cutbacks in Customs personnel. Congress has blocked these cuts and even added new positions. This year is no exception. The treasury appropriations bill currently before the House restores all 1,547 positions to Customs and provides funding for 850 additional Customs personnel. I am proud to lend my support to this measure.

I hope that before this Congress adjourns we may be able to increase even further the funding for vitally needed Customs inspectors. Inspectors account for 80 percent of Customs drug seizures and they produce revenue for our country. Cutting Customs inspectors to reduce the deficit makes little economic sense and it cripples our drug enforcement effort at the border.

Clearly, we need more resources to repel the drug invasion at our borders. At the same, our enforcement efforts are impeded by a body of antiquated Customs laws that has failed to keep pace with the severe challenges of drug enforcement. H.R. 5310 revises and updates our Customs laws to close a number of loopholes that now make it easier for drug traffickers to smuggle drugs into our country.

For example, the bill requires all vessels to report their arrival in the United States immediately, rather than within 24 hours as is now the case. Similarly, it requires pedestrians to report immediately and also requires them to cross into the country only at approved crossings. The bill also prohibits airdropping drugs to vessels at sea, a tactic frequently used by smugglers in the southeast. It establishes civil and criminal penalties for violations and permits the forfeiture of aircraft and vessels used in connection with such violations. The bill also increases fines for carrying unmanifested drugs and other drug-related violations, contains provisions to enhance Customs forfeiture, and includes a number of other sections to facilitate enforcement of the Customs laws against illegal drug traffic.

The bill also extends the Customs Forfeiture Fund for five years, increases from $10 million to $20 million the amount available for appropriation from the fund and expands the expenses which can be paid for out of the fund. These provisions will help make better use of traffickers' illicit assets to dismantle their illegal operations.

Finally, title III of the bill incorporates legislation I introduced last year, H.R. 3404, the "Narcotics Control Trade Act." My bill would have denied most-favored-nation treatment to the products of any foreign country that is a source of narcotics, psychotropics or other controlled substances significantly affecting the United States if the President determines that the country is not cooperating with the United States to prevent the production, processing and trafficking of these drugs. H.R. 5310 takes my bill one step further and would also deny preferential tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law, to products from uncooperative drug source nations.

The enactment of title III will give our country a powerful one-two punch in the fight against international drug trafficking. The 1983 Rangel-Gilman-Hawkins Amendment to the Foreign Aid Act already gives the President authority to suspend aid to countries that fail to take adequate steps to control drug traffic to the United States. Title III will complement this aid sanction with a trade penalty. It will send a clear signal from the American people to the legitimate economies of drug source countries: their goods will not be received favorably by our citizens unless their governments take effective steps to proscribe illicit drug production and traffic.

The effects of narcotics trafficking and drug abuse continue to drain our nation and threaten our very security. We cannot hope to bring this problem under control unless we are willing to use economic as well as diplomatic incentives to ensure that drug producing nations take every action necessary to eradicate the supply at its source. We need to secure the commitment of the people of these nations, as well as their leaders, to address the problem. The combined threat to a country's trade and aid should make it easier to secure such a commitment through diplomatic means.

In closing, H.R. 5310 is a sound bill that will enhance our narcotics control efforts at home and abroad. I strongly support the bill and urge your subcommittee to approve it.

Again, thank you for the opportunity to testify. I would be happy to answer any questions you might have at this time.

Chairman **Gibbons**. Thank you, Mr. Rangel. Let me suggest to you, as you have suggested, that this is a modest bill, but perhaps in committee the day after tomorrow we can add much more to it. I think much more should be added to it. We had to have some place to start, as we discussed at the meeting that the Speaker and the majority leader had.

I think we have a pretty broad invitation to bring to this bill most of the good ideas we have, whether they are within the jurisdiction of the Ways and Means Committee or not. The Rules Committee is going to apparently sort out all those matters when they get there.

Let me take advantage of the tremendous amount of experience that you have had in the area and see if we can't brainstorm about some things here. What do you think it would cost on an annual basis or a 5-year basis to finance a good war on drugs? Have you stopped to think about that? Ultimately it is going to mean that the Ways and Means Committee is going to have to raise the money to finance the war on drugs. There is not enough money involved in this bill to finance anything other than a tea party.

What would it cost us to carry on not only the interdiction and the closing of the borders, controlling of the borders again, but perhaps the kind of rehabilitation that is needed in order to begin to shrink the marketplace in this country? Have you determined how much it would cost to do that?

Mr. **Rangel**. Well, we have introduced a bill, H.R. 526, that has over 100 cosponsors. H.R. 526 provides for $750 million annually over a 5-year period. This bill, however, merely gives assistance to local and State governments to increase their drug enforcement and drug treatment and prevention efforts. In other words, there are no Federal programs involved. What we do in the area of education and rehabilitation is to make funds available to States and localities in areas where there is a high degree of drug abuse and drug trafficking to set up programs, and one-sixth of the moneys are available for that.

With law enforcement, it is just unbelievable the burden that we place on our law enforcement community. Frank Guarini joins with me to support my statement that the drug problem is so frustrating. In his home State of New Jersey we heard testimony from a police chief who was so frustrated that he asked had we ever thought about legalizing drugs, because he was that embarrassed about his inability to control the problem.

I used that example once in speaking to a national group of law enforcement supervisory officers, and he stood up and said, "I am still here." I didn't have any idea that he was in the audience.

Lastly, the area that we concentrate on is our courts and our prisons. In New York we don't have arrests because the district attorneys' offices are backlogged because there are no judges available. We have, as do most States and the Federal Government, a speedy trial statute where all the defendants have to do is ask for a trial by jury and they will know they are not getting a trial and they will not stay in jail, because we have our court calendars clogged up and there is a shortage of judges. This too would be a modest effort.

What I am hoping, however, is that as the Congress moves forward in trying to see where the problem is, and I am certain that Commissioner von Raab would agree, that we will attack this problem at the same time every place. I see in our rehabilitation centers tears in the eyes of the executive directors when they hear that the police are cracking down.

Why? Because when addicts get into court, judges don't want to put them in jail. They want to put them in treatments centers. Or when addicts believe that they stand in jeopardy of going to jail, especially the addict pushers, they immediately want to sign up for treatment. We don't have the treatment centers, so that if we deal with production alone, it only means the price is going to go up on the street. If we deal with law enforcement alone, it just means that you are clogging the court calendars.

But the essential thing, and where we have failed miserably, is in the area of education. We have an $18 billion education budget, and Secretary Bennett testified before the select committee that only $3 million is set aside for drug education. And do you know what that is, Mr. Chairman? It is a slush fund for people to come in for conferences and to share their experiences, without any obligations or accountability.

We asked the Secretary,"What is our Federal policy as it relates to demand reduction and education?" And he responded: "Zero tolerance."

We asked what did that mean, and he said kick the users and purshers out of school.

Well, we believe you have to be tough, but shouldn't you try to educate children, or at least make available some education before they begin abusing drugs? And when you kick them out, where can they go without some support for local treatment centers?

Chairman Gibbons, we believe you have to get tough. We don't believe that government, especially the Federal Government, can reduce demand, but at least we can be partners with the private sector, with the homes and the churches in doing something about it.

The $750 million is not a Federal program, the bill that we advocated, but it merely tells the local and State governments: Get out, do something on your own, and count on your Federal Government to give you assistance, once we see that you are making a meaningful effort to deal with the problem.

What would it cost if we went back to the Federal programs that we used to have under President Nixon, where we saw a reduction in production because he cut off assistance to Turkey and closed the borders to Mexico, which gets a lot of people frustrated when you work that way, when he went out and gave direct assistance under the law enforcement assistance programs; where arrests were being made in the streets, not only by local police, but when the Federal agents were there arresting some of the local police that had gone bad, because of the great temptation of the money. And just as important, we had educational programs going on at the same time.

Mr. Chairman, it did work, and I only hope that the declaration of our President, President Reagan, means that he is prepared to bring those resources together.

Chairman GIBBONS. That is a very interesting observation you made there. You said $750 million annually, and that was just an educational program, or to encourage the local schools to get into educational programs.

Mr. RANGEL. And cover law enforcement and the court system as well.

Chairman GIBBONS. Do you know of anything that is going on in the Education and Labor Committee or in some of these other committees to try to improve this drug problem?

Mr. RANGEL. Yes.

Chairman GIBBONS. Are they going to come forward with some proposal?

Mr. RANGEL. Yes. We have a separate bill that provided for $100 million to give drug education assistance to State and local educational agencies. Chairman Augustus Hawkins is having hearings this week on that and other proposals by other Members of Congress. I hope to be testifying in front of his committee.

Chairman GIBBONS. Perhaps you could ask the staff of your select committee to get together to try to tell us how much they think this ought to cost—and then the Ways and Means Committee on Thursday could come up with a tax that does it. I know it is easy for me to talk about taxes because I don't have to run again until 1988, but I would be willing to spearhead any effort that is necessary to raise the revenue from any source to make sure that we have a war on narcotics that is adequately financed, because I think unless we finance it, we are probably fooling ourselves and deluding ourselves as to the success of it.

Mr. RANGEL. You are so right, Mr. Chairman.

Chairman GIBBONS. I would be happy to work with anyone who wants to work on this project. If the chairman decides that this is outside the scope of our committee, I would be happy to work with anyone who wants to work on this project. If the chairman decides that this is outside the scope of our committee, I would be happy to go to the Rules Committee with anyone, either alone or with anyone, to get the necessary financing to make sure that this is done. But I need better revenue estimates and a better plan as to how to do it than we now have.

I hope that when we start this markup on Thursday, the committee will be innovative about making suggestions as to what needs to be done in addition to this very modest bill. This is a very modest bill, but I hope our committee—having its hands on the purse strings and having its hands on medical care, having its hands on welfare, having its hands on unemployment compensation, all of those other things that we have our hands on—can come up with something that will be dramatic and will be effective in winning this battle.

We started with a modest piece, but I would be happy to work with you.

Mr. RANGEL. Mr. Chairman, I am convinced that as much as increased taxes are repugnant to our constituents, that this is one area that they would be glad to assume a little more burden in order to fight this great menace to our society.

Chairman GIBBONS. Fine.

I have on the schedule this morning for examination Mr. Schulze, Mr. Guarini and Mr. Daub, in that order. Mr. Schulze, would you like to start?

Mr. SCHULZE. Yes, Mr. Chairman.

I would like to start by saying that drug addiction and the drug problems that we have in our Nation are not partisan. I don't know that there has ever been a study made as to whether Republicans or Democrats are more addicted or use smack or heroin, cocaine, or marijuana, one more than the other.

I would like to express to my two dear friends, the chairman of the Select Committee on Narcotics and the chairman of the Trade Subcommittee, my deep disappointment in the partisanship of this measure, the fact that those of us on this side of the aisle were not consulted in the preparation of it. We are sort of playing political oneupsmanship with this issue, and that is a damn shame, it really is.

I know that Customs apparently has been working with the majority on some of these issues, and that is a shame too, that it has been politicized, because the package is good.

Chairman GIBBONS. Would the gentleman yield?

Mr. SCHULZE. When I finish, Mr. Chairman, when I finish.

This package was handed to us as sort of a fait accompli. I might say that some of the items in there I not only agree with, but I have been discussing with my staff for well over a year. I don't have problems with the package as a whole.

The gentlemen both know what is going on, that we are trying to play games to get ahead of the President. The President is trying to get ahead of the Congress, and we are playing these little reelection gimmicks.

Chairman GIBBONS. Mr. Schulze, if I might interrupt you because that is not accurate.

Mr. SCHULZE. Mr. Chairman, it is accurate.

Chairman GIBBONS. Let me tell you the staff is here and they will testify that they gave to you and to every Republican member of this committee a copy of the outline of this bill a week before it was introduced.

Mr. SCHULZE. That is not true, Mr. Chairman.

Chairman GIBBONS. Well, I don't know who stopped it.

Mr. SCHULZE. I don't know whose staff can say that.

Chairman GIBBONS. Rufus, get over and take the chair right now. You and George take the chair. Let's find out about this. This is not supposed to be a partisan matter.

Mr. SCHULZE. I agree. That is what I am concerned about.

Chairman GIBBONS. It is not going to be a partisan item as far as I am concerned. We are going to get the truth out right now.

Mr. RANGEL. While the staff is coming, let me share with my colleague and friend that I have spent more time talking with Bob Michel than I have with Jim Wright. I have spent more time with Ben Gilman the ranking minority member of the select committee, than I have with Frank Guarini, who is a senior member of the Narcotics Committee. Just yesterday I have been working very closely with Jerry Lewis, and over the past weeks with Jack Kemp. We have made it abundantly clear.

There has not been a meeting of the leadership where we have not had the people who have been appointed by Bob Michel to work with this, because we know it is so easy for any Republican or Democrat to get involved in the temptation, knowing the concerns of the American people, to get partisan, but we also know that with the Democratic control of the House, and Republican control of the Senate, that nobody is going to win politically, if indeed we yield to that temptation.

Mr. Schulze, if for any reason in this committee something has fallen between the cracks, I hope that you will spend some time with me today on your side of the aisle to see the extraordinary attempt that we have made to make certain that if anyone slips on either side in making this a political issue, that we would be tolerant enough to show that we have made an effort to avoid this. The people at the White House yesterday——

Chairman GIBBONS. You all got away with that garbage on the trade bill because I kept my mouth shut. I broke my back to work with your staff and your people on the trade bill to make sure it was a bipartisan bill. Now, by golly, let's don't start that again, because it is a bunch of garbage and I call it that right now. Anybody that disputes me, it's a darn lie. I just wanted to get it on the table flat that there is no attempt to make this a Democratic proposal. We have tried from the beginning to make it a bipartisan proposal. If your name is not on this bill, it is not my fault, and you can put it on any time you want to. And you have had plenty of opportunity to do it. And don't give me that garbage again. You are not going to get away with it.

Mr. SCHULZE. I will give it to you.

Chairman GIBBONS. Well, it is just plain garbage.

Mr. SCHULZE. I will state it as a fact. That is fine, that is your opinion. It is a shame that it is that way.

Chairman GIBBONS. It is not that way and your stating it will not make it that way, Mr. Schulze.

Mr. SCHULZE. Let's just be factual, not emotional.

Chairman GIBBONS. I am not being emotional. I just want to challenge your accusation. You got away with it on the trade bill because I kept my mouth shut. I was trying to be a nice fellow. You are not going to get away with it on this bill.

Mr. SCHULZE. You are saying I did something on the trade bill?

Chairman GIBBONS. I worked with you from the very beginning. I worked with every member of this committee, as I have historically, with your staff and everybody else, and you got in there and said it was a partisan bill.

Mr. SCHULZE. Calm down, Sam.

Chairman GIBBONS. You titled it a partisan bill, and I resent it because that is not my style, and you are not going to say that about this bill. And I challenge you to put up or shut up.

Mr. SCHULZE. I will be happy to put up.

Chairman GIBBONS. OK.

Mr. SCHULZE. Mr. Chairman, I will say again it is a shame that we were not involved in the preparation of this bill, because most of the items in it I support 100 percent. I do not think that drug problems are partisan.

Chairman GIBBONS. They are not partisan.

Mr. SCHULZE. They are probably totally bipartisan.

Chairman GIBBONS. Let's get that straight.

Mr. SCHULZE. And I am sure that this package, as it goes through, will probably pass with the largest bipartisan vote that there has been, because it is an issue of concern, whether you are rich or poor or black or white or Republican or Democrat it makes absolutely no difference, and I just think it is a shame that more time was not spent in a bipartisan way in the preparation of the bill.

Sam, I heard that Thursday night.

Chairman GIBBONS. Well, what is wrong with your staff then? They are here. They got a copy of this.

Mr. SCHULZE. They heard about it Thursday night.

Chairman GIBBONS. Somebody is not telling the truth.

Mr. SCHULZE. Mr. Daub says he heard about it Thursday night.

Chairman GIBBONS. Let's get out here and clarify it for the record right now. You three staff members get out there and let's get it straightened out. I am tired of this kind of garbage.

Mr. SCHULZE. Sam, I don't bring it up to make garbage. I am not trying to do that.

Chairman GIBBONS. Either the staff is lying to me or somebody is. Why isn't this a bipartisan bill?

Mr. YERXA. Mr. Chairman, the indication that committee action was to be expedited on legislation came from the House leadership shortly after the meeting you referred to earlier in today's hearing, and immediately after that the chairman of the committee indicated that he wanted legislation drawn up, that he wanted every one on the committee offered an opportunity to draw on that legislation.

Essentially, the legislation that was drawn up took the provisions that had been proposed by the administration in the Customs Enforcement Act. Commissioner von Raab's statement indicates our bill is drawn almost entirely from that administration proposal. An outline of that proposal was provided to the minority staff of the committee the week before the bill was introduced, with an indication that we welcomed comment and support from minority members of the committee.

At Chairman Rostenkowski's instruction, we had the formal legislative language drawn up. Because of the expedited time schedule, the legislative language did not wind up in our laps until the morning that the bill was introduced. During that day we endeavored to contact as many Republican members of the committee as we possibly could. We contacted the minority staff of the committee, and indicated that the chairman wanted a bipartisan bill. He wanted support and cosponsorship from as many Republican members of the committee as would see fit to support it, and in addition, of course, would welcome positive amendments by both majority and minority members during committee markup.

Those were his instructions to the staff, and I apologize to Mr. Schulze if because of the expedited time schedule it was very difficult for us to turn the legislative language around and get it to members earlier. But we did endeavor to get it, a draft, an outline of the proposal, to the minority staff as soon as it was prepared.

Mr. Schulze. Was there contact with my office before Thursday evening, sometime before Thursday evening?

Mr. Yerxa. No, we contacted the minority office of the committee, but we did indicate to them that we were interested in having bipartisan support for the legislation.

Chairman Gibbons. Rufus, you told me that every Republican had been called. Were they called?

Mr. Yerxa. We called the office of every Republican member on Thursday, the day the bill was introduced, when after discussions with the minority staff, there was an indication that they didn't know of any Republican members who were interested in cosponsoring. We then endeavored to contact each Republican Member, and we got the same answer, that at this time they were not interested in cosponsoring it.

Mr. Schulze. Mr. Chairman, if I may say, I had been asked by Mr. Duncan to serve on the drug task force as a representative of the Ways and Means Committee, and when I received the call I said, gosh, get it over to us and let's see if we can have time to go over it. But I cannot say to you blindly, yes, I want to cosponsor it just because it is a drug bill. I would love to be a cosponsor, and had I had the opportunity to go through it thoroughly I probably would have been a cosponsor. But I just felt that being called Thursday evening and saying we are going to introduce it, you have got to go on it, give me a yes or no, is not—I think you would resent it, Mr. Chairman.

Chairman Gibbons. That is all the information I got.

Mr. Schulze. You were called on Thursday also?

Mr. Yerxa. That is really all the information the majority members got as well, because of the expedited time schedule. We provided an outline to minority staff as soon as it was prepared.

Mr. Schulze. I like to read and understand legislation before I cosponsor it.

Chairman Gibbons. We were told it was Mr. von Raab's legislation. I figured there would be some discussion.

Ms. Askey. Mr. Chairman.

Chairman Gibbons. What do you want to say, Thelma?

Ms. Askey. I just want to add, I think the Republican Members want to have time to discuss this issue, see the bill. We had an outline of the bill several days before cosponsors were sought. However, because of the short timetable, as Rufus said, we had not seen the legislative language until the day, afternoon of the proposed introduction. We had not had a chance to talk with Mr. Michel about what the task force was doing, or with Mr. Schulze about what he was doing on the task force.

We had had no contact from the Treasury Department about this bill whatsoever, so it is not so much an argument among the committee. It is just an effort to try to contact the administration, contact USTR, and have an effort to understand the legislation. Since George and Rufus were quite clear with us about what the outline was going to be, and that this was at the direction of Mr. Wright and Mr. Rostenkowski, we just wanted to have contact with the administration and with Bob Michel before advising our members on what the contents of the legislation would be.

And, of course, we needed to read the legislative language. So I think a combination of the short timetable and the administration had made no contact with the minority side separately, so that was, I think, the problem in this matter.

Chairman GIBBONS. I regret we started off in an awkward fashion.

Mr. SCHULZE. Mr. Chairman, I do too, and maybe we ought to get this issue out of the way. It is a shame it happened, and it is a shame it happened the way it did.

Chairman GIBBONS. Dick, I was shocked when I first picked up this bill, and this is the first time I had seen it this morning. I thought it started off Rostenkowski-Duncan and just went right on through the list of committee members. I had asked the staff to put Mr. Rangel's name ahead of mine because Mr. Rangel is entitled to have his name ahead of mine; he has been a crusader on this.

Mr. SCHULZE. I agree.

Chairman GIBBONS. Let's let bygones be bygones.

Mr. SCHULZE. I agree.

Chairman GIBBONS. As far as this legislation is concerned, there are no holds barred about ideas that can come in here. I tried, in working with Mr. Rangel here this morning, thinking how we can expand this and make it more effective. I will go to the Rules Committee by myself, if it need be, to ask for the opportunity to present an amendment to produce the money. I don't even need any bipartisan support on that. I will just stick my own cotton-picking neck out. I don't have an election until 1988 or something like that. It is a wonderful feeling.

Mr. SCHULZE. Mr. Chairman, if I may continue.

Chairman GIBBONS. OK. Sorry, Charlie, to get you involved in this. I thank the staff.

Mr. SCHULZE. Charlie, I understand that 14 different countries now implement drug eradication programs of one kind or another. How many of them are involved with international trade sanctions of some kind; do you know? Have you looked into that aspect?

Mr. RANGEL. Dick, it is amazing. The State Department—no matter what the administration is, Republican or Democrat—somehow believe that sanctions are not a tool to be used. When Ben Gilman and I and Senator Hawkins introduced our amendment, before the ink dried, when the President signed it, Attorney General Meese was saying he didn't believe in sanctions. Not that he was asked, you know. But he had to have a press conference to indicate he didn't believe in it. And so it was only until that law was passed where we required—first of all, Peter Rodino, in the early 1970's, gave the President the power to exercise sanctions, if a country was not cooperating.

Again, every President refused to use it, so we changed it, and we mandated that before appropriations were given to a country that the President had to certify to the Congress that this country indeed was cooperating. When we changed the law, it was clear that there was nothing that you could do with Bolivia to have the President come forward and say that they were cooperating.

For that reason the Bolivian Government received sanctions economically, redrafted their program, presented the request for assistance, and even though I wish the President had come to the

Congress, I support it, the U.S. military assistance that he gave to that country to enable their police to go after illicit cocaine labs. So we don't believe we should have sanctions. We believe that the authority to impose sanctions should be a tool so that these people can't talk about national pride while their farmers grow illicit narcotics without even the fear of having any international reprisal.

Mr. SCHULZE. Do any other countries have in other areas--not necessarily the drug areas—sanctions or some form of reprisal sections?

Mr. RANGEL. Well, South Africa, you know, has limited sanctions which are hardly used by this country, and we are trying to broaden that. But in the Caribbean Basin Initiative we made certain that sanctions are provided. We even go as far as talking about the money laundering, that we should have access to those markets where we can show that crimes have been committed, that if you want to enjoy preferential treatment, that you should cooperate in this area.

In addition to that, there are all types of unilateral and international treaties that are there that these countries openly violate, and even the United Nations has taken time out from beating up on us to start looking at each other, and asking for a little more cooperation. Sanctions by themselves will not work.

Mr. Schulze, I really think the sanction is more important for our ambassadors that are stationed in these countries, many of whom sometimes appear to forget whose interest they are there to protect. Raising the question of drugs sometimes is such an embarrassing thing, especially when you are talking about corruption, and some of the people you are talking about are not the victims but the perpetrators. Providing this weapon lets a country know that sanctions are out of the ambassador's hands, that our Government, the U.S. Government, will be forced to withdraw assistance to the country if it doesn't cooperate with the ambassador and with the initiatives.

Mr. SCHULZE. The bill as proposed with GSP and MFN I think is relatively mild.

Mr. RANGEL. It is.

Mr. SCHULZE. I have talked with my staff over the years about building in some kind of reciprocity. We do have the largest domestic market in the world, the largest consumer market, not only for drugs but for other good as well. And if we say if you continue to abuse this market in that way we are going to cut off your other goods, I think that would be a very powerful leverage. MFN and GSP are relatively minor in comparison.

Mr. RANGEL. I agree.

Mr. SCHULZE. I think it should be even stronger. I thank you, Mr. Chairman.

Chairman GIBBONS. Thank you. Mr. Guarini is next, but I have been thinking here—I want to say to you, Mr. Schulze, you probably did us a service when you raised the question of why there were no Republicans on this bill. I regret very much that there are no Republicans on this bill, and frankly I intend to take it up with the chairman and ask him if he will reintroduce another bill and have you all join us, if you will, and use that as a vehicle for the markup, rather than this one.

Mr. SCHULZE. Mr. Chairman, I think you would find great cooperation.

Chairman GIBBONS. Fine. My instructions to the staff are right now to stop, contact the chairman, suggest that we introduce another bill with another number, and let's go out and actively seek Republican cosponsorship on our committee, because we can't move ahead unless we move together on this.

I want to start united and end united on this, and I want to make it a tough bill that raises the money to do the job, not just a modest bill such as we have now. Would you all get started on that?

Mr. Guarini is next and then you, Mr. Daub.

Mr. GUARINI. Thank you, Mr. Chairman.

My dear colleague, I just want to say that it has been a privilege working with you on the select committee. There seems to be a sudden rush for a national initiative and a national strategy under your leadership. For years now you have been going around the country and around the world with a clarion call that we have a man-sized problem on our hands and no one has been listening, and I want to really thank you for the leadership you have given in bringing this problem to the fore.

Perhaps were it not for Len Bias and Don Rogers, the news wouldn't have gotten to the White House, so I want to say that today I listened to Carlton Turner, who said that he lauded the President for his vision in the drug program, and I just wonder whether you feel, when the President vetoed the czar bill where there would be one man who would be the center of a national drug strategy, that he would be pinpointed for the responsibility of dealing directly with the President, that that was an unfortunate move. Are you still in favor of a czar for drugs?

Mr. RANGEL. Let me first say that there has been no country that I visited or no congressional district or a State that you haven't been right there, and I just want to thank you publicly for that type of support, for the select committee and for the Congress.

Yes, I do believe that there should be someone that the responsibility to coordinate a national drug strategy should fall on. Whether we call him a czar, whether we call him a special assistant to the President, somewhere there has to be a coordinated strategy. We don't have that with foreign policy, and we certainly don't have it with domestic policy.

If we were to ask right now who in the heck is running the shop, I am afraid that we will end up with the first lady, and I think we ought to give her a lot of credit for doing more, at least publicly, than anybody else I know. It really hurts me that as this committee is considering international sanctions, that nobody can ever recall the Secretary of State ever speaking on this issue privately or publicly. And you can't call it a war unless you have the person that is in charge of carrying out our foreign policy talking about it. Whether he should be in charge of overall drug policy I don't know.

Whether it should be the Secretary of Education I don't know. The Attorney General makes more trips overseas on this matter than anyone else, but we don't hear him talking about education. We don't hear him talking about local law enforcement. So I think that if we are having a war, and the President has fired the first shot, that soon he will tell us who will be coordinating that effort.

Mr. GUARINI. Mr. Chairman, in regard to the Rangel-Gilman bill, I might say that everything that I could say about what has been done in Congress should go to the credit of Mr. Gilman also, because you and he on a bipartisan basis have worked magnificently together, and you have shared the total leadership on this problem, and he has worked very, very hard in every way, working together, not on a Republican-Democratic basis, but on a true bipartisan basis that was referred to by Mr. Schulze.

But the Foreign Aid Act, which you and he have put in, had really not been working very well in regard to how the President had implemented it, and I know that there has been a lot of dissatisfaction in the past. Well, now there are additional sanctions that are called for in this bill. If the President, of course, gives the same cooperation, most-favored-nation treatment, the CBI, the GSP, would we be better off than what has happened with our foreign aid implementation?

Mr. RANGEL. Well, at least it affords the committees an opportunity to have the administration come and express what cooperation they are getting from these countries, especially the Trade Committee now would have jurisdiction. They would have to come and explain what they are doing in this area. It could be that the bill could be perfected to say that the administration, as in the Rangel-Gilman bill, has the responsibility to declare on the record before they request preferential treatment, that this Nation is indeed cooperating with our effort to control and eradicate drugs.

Mr. GUARINI. And it is a strong statement of policy.

Mr. RANGEL. Exactly.

Mr. GUARINI. Let me ask you exactly, the media is very, very powerful. The USFL couldn't succeed without having the value of the media in the antitrust suit that was brought. It is a powerful educational tool. There are press conferences that are being held all over the Hill now concerning the newly discovered drug problem we have in our country, and one of them, of course, is getting the media to do more in educating the public.

They have the Advertising Council, which has been putting through a lot of ads that have been very helpful, but the spots that have been given have been whatever has been made available. Do you think that the media on a voluntary basis should be stepped up to do more, and should be urged to be fully implemented as a tool to educate the public so that the demand side can be taken care of?

Mr. RANGEL. Mr. Guarini, voluntary or mandatory, this is a war. I am encouraged by what I saw the Advertising Council do in World War II, where Americans hardly knew what war was all about, since God had blessed us in not having it reach our shores. Yet the Advertising Council was able to talk about security and war bonds and the necessity of being united against a common enemy abroad. With regard to drugs, there is no reason why there should be any less of an effort on our billboards, our radios and our schools, our libraries, and television. And if the private sector cannot see to make this contribution, then I would ask that the Energy and Commerce Committee take a look at these airwaves, which are basically the property of the American people, to see whether or not in a mandatory way that they would not be able to make some substantial contribution to the educational process.

Mr. GUARINI. We are talking about all television and radio——

Mr. RANGEL. Definitely.

Mr. GUARINI [continuing]. And all public——

Mr. RANGEL. Definitely; you know, within the framework of being a democratic republic. But by the same token, lives are being lost and they have an obligation to protect our society against this enemy.

Mr. GUARINI. Instead of just leaving it to the stations to use just open space, whatever spots aren't billed or sold, would you favor a special commission that would adopt a program so there is a concerted effort, instead of it being happenstance, that it would be actually something that is programmed by a special White House Commission or whatever in order to plan it better, so that there be more educational information given over the air waves?

Mr. RANGEL. I have not studied that. It sounds like it would make some sense so that it would be done in a coordinated way and we wouldn't get everything at 12:30 on Saturday night.

Mr. GUARINI. When the children aren't listening.

Mr. RANGEL. Right. But as you said earlier, if we knew who was in charge of the national program, it would be of great assistance, and here I think that Chairman Rodino's call for a White House conference might bring out the best minds in our country to have these ideas that could work, and bring in our media people to see how we can coordinate some effort in that area.

Mr. GUARINI. Mr. Chairman, the Congress and the Nation is in your debt. Thank you for your leadership.

Chairman GIBBONS. Mr. Daub.

Mr. DAUB. Thank you, Mr. Chairman.

I am always impressed by the Chair's willingness to invite other members of the Ways and Means Committee to the subcommittee deliberations.

Chairman GIBBONS. Let me point out I appreciate your willingness to come here. All members of the Way and Means Committee were invited to come here this morning. I appreciate your coming.

Mr. DAUB. I have always been particularly impressed, as I said, by the fact that this committee operates the way it does, and I wish more committees of the Congress did. I do want to commend you in that regard, and especially for your interest in this subject. There isn't any doubt, as I would echo Mr. Guarini's words the praise for the gentleman, my friend from New York, and his colleague from New York, Mr. Gilman, for all the work they have done on what is, I think, the most serious problem in our country. I think it is more serious than tax evasion.

I think it is more serious than tax reform, Gramm-Rudman, deficits, and all the rest, because of the implications that it has and it is clearly a subject that has overwhelmed the ability of our local and State social service and law enforcement agencies to get a handle on managing the problem better. I don't think that we can overlook the real key role that the Federal system can play in resolving this problem and getting it on a track to extinction, if that were our ultimate goal from all of our coordinated efforts.

Do I assume correctly, Mr. Chairman, that it is Treasury officials who will testify shortly?

Chairman GIBBONS. Oh, yes, sir.

Mr. DAUB. How many Treasury and Customs officials are in the room today? Could I ask a show of hands so I can see whether you are all here or out working on drugs?

Mr. GUARINI. They should be on the border right now, Mr. Chairman.

Mr. DAUB. I know we have more Capitol Hill police than we do border guards between the United States and Mexico. We have got plenty of talent here ready to give us a lot of backup information. As a Republican, I will be interested in that, because I haven't heard from them until today, and I want to question them thoroughly. I have a lot of questions for them.

Chairman GIBBONS. Fine.

Mr. DAUB. Mr. Chairman, I defer until we get a chance to have them up here at the microphone.

Chairman GIBBONS. Thank you very much. Thank you, Mr. Chairman.

Mr. RANGEL. Thank you, Mr. Chairman. Let me say before I leave that as we have fought over the last couple of decades in this area, consistently we heard from the State Department that there was light at the end of the tunnel, that they expected more cooperation from these offending countries. We have heard from Federal law enforcement saying they didn't need any more people, that they were doing a pretty good job and it was really a local and State problem.

But as to our borders we have had Commissioner von Raab, who has been outspoken, and courageously so, in indicating not to expect him to take care of the borders and to protect us unless we are prepared to give him the resources that are necessary to do that.

I think that is important, whether you are Republicans or Democrats. When the Congress wants to come forward, we cannot be dictated to by OMB, who is not involved in the responsibility of protecting our great Nation, and I just wish I could stay to hear his testimony, but I want to make certain that I said that before I left.

Chairman GIBBONS. Before you leave, Mr. Rangel, let me point out that in full committee I expect to offer an amendment that would not only take this back to the column 2 rates, but would also, because there are many items that are not in column 2, would cover all products from that country, not just the ones that happen to be in the column 2 rate. I will ask the staff: Frank, if you will communicate my wishes to the staff to prepare for me an amendment to put on a penalty high enough so that we catch all of their goods, not just the ones that would be affected by most-favored-nation states.

Mr. RANGEL. Fantastic. Count me in and thank you again, Mr. Chairman.

Chairman GIBBONS. Thank you for coming.

We have with us the Commissioner of Customs, Mr. von Raab, accompanied by Mr. Rosenblatt; is that correct?

Mr. VON RAAB. Mr. Seidel from our chief counsel's office.

Chairman GIBBONS. Go right ahead, Mr. von Raab.

STATEMENT OF HON. WILLIAM VON RAAB, COMMISSIONER OF CUSTOMS, ACCOMPANIED BY STUART P. SEIDEL, ASSISTANT CHIEF COUNSEL, ENFORCEMENT AND OPERATIONS

Mr. VON RAAB. Mr. Chairman, thank you very much for this opportunity to speak to your committee with respect to the proposed legislation. I am accompanied by Stuart Seidel of our chief counsel's office, who is probably the most expert in the piles of statutes which Customs is responsible for enforcing and administering, and I am sure that he will be particularly helpful not only to this committee but to me in answering any specific questions you may have with respect to this legislation.

I would like to take this opportunity to thank the committee under your leadership for the support that it showed in the passage of the Comprehensive Crime Bill of 1984.

It was particularly helpful to have your committee working hard on that. That provided us with very, very important tools in fighting the drug battles, as are the proposals set forth in the legislation before us are more tools.

I would also like to put in a personal note that it is nice for me to have an opportunity to testify before this committee, as I was afraid since the authorization hearings never actually took place for Customs, that I would not be able to see your smiling faces asking me questions about Customs' plans and programs.

The menace that illegal drugs pose to our Nation has recently become even more acutely highlighted to the American people. This message was delivered with great force and vigor just yesterday by the President, and it has been long known to us in law enforcement and to many members of the public, and it is even more clear to all of us that the drug problem must be stopped.

During the last year the Customs Service and the administration have reviewed the Customs' enforcement laws, and developed a legislative package greatly to enhance the use of these laws in the war against illegal drugs.

As you know, the primary Customs mission is to interdict merchandise, including drugs, being brought into the country illegally. The Customs laws now on the books, to a large extent, are intended to deal with the importation of legitimate merchandise.

Thus, the enforcement provisions generally address situations where legitimate goods are imported in violation of law. Let me emphasize that these laws are used in drug enforcement, but they are not as potent as they should be for combating the drug menace.

I keep on my own desk a copy of the Tariff and Trade Laws of 1790 and in many respects the laws under which we are operating are contained virtually unchanged in those laws. As a matter of fact, I also point out to people on the commercial side, that the laws that we operated under in 1790 were much less cumbersome and complex than the laws under which we operate today, but as far as the criminal side is concerned, it certainly is very, very helpful to have this committee take a look at some of the old laws and to try to bring them in line with some of the modern criminal problems that we face.

To modernize the Customs enforcement laws and to specifically meet the drug challenge, the administration recently sent to Congress the proposed omnibus legislation which is entitled the "Customs Enforcement Act of 1986." This act is, to a large degree, designed to remedy existing weaknesses in the law by making the Customs laws more effective for the detection, apprehension, and punishment of drug violators.

H.R. 5310 essentially incorporates those portions of the Customs Enforcement Act of 1986 that deal with drug enforcement. Thus, the Customs Service strongly supports those portions of H.R. 5310.

I now would like to briefly summarize the main enforcement provisions in H.R. 5310 and explain why these amendments are sorely needed. It should be noted that although these provisions are, to a large extent, directed at drug violations, they also will improve enforcement of other laws administered by Customs, for example, particularly what we call commercial fraud or gross violations of our tariff and trade laws.

This bill before us would require all vessels arriving in the United States to report immediately to Customs, instead of having 24 hours to report, which is now allowed.

The weakness in that is obvious. You have 24 hours to report, 24 hours to do whatever you want until you decide to make a telephone call.

Chairman GIBBONS. You can have it in New York by that time.

Mr. VON RAAB. That is right. Require persons entering the United States at land borders to enter only at authorized border-crossing points, instead—incredibly enough, now you are allowed to enter at any place across the border, and also to require passengers to report for Customs inspection and remain in the Customs area until cleared by a Customs officer. I am almost reluctant to acknowledge publicly some of the weaknesses in our law for fear that some of the criminals that would violate our laws would take advantage of them, but as they are old fashioned laws, there are some terrible weaknesses in them, and I am delighted that we are addressing them.

The law would also increase penalties for noncompliance with Customs reporting requirements. A law without a penalty isn't very helpful.

The amendments would grant increased authority to gather evidence of violations of laws and regulations enforced by the Customs Service by expanding our subpoena and search warrant authority.

They would restrict exemptions from fines, penalties, and forfeitures for common carriers.

They would clarify forfeiture provisions for prohibited or restricted merchandise, another outmoded distinction.

They would clarify the Secretary of the Treasury's authority to exchange information with foreign law enforcement authorities and they would tighten forfeiture laws for vessels and aircraft used in connection with drug activities.

As I indicated before, Customs, Treasury, and the administration strongly support those provisions, and I would be happy to answer any questions you have.

[The prepared statement follows:]

STATEMENT OF WILLIAM VON RAAB, COMMISSIONER OF CUSTOMS

The menace that illegal drugs poses to our Nation has recently become acutely highlighted to the American people. This menace, long known to those of us in law enforcement and to some members of the public, has now for a number of reasons galvanized opinion that the drug problem must be stopped.

The deaths of prominent athletes due to drug use, the destruction of lives by new and more dangerous drugs such as "crack" (a potent form of cocaine) and the ever growing threat to our children from drug abuse, have all raised this issue to the national spot light.

During the last year, the Customs Service and the administration have reviewed the Customs enforcement laws and developed a legislative package to greatly enhance the use of these laws in the war against illegal drugs. As you know, the primary Customs mission is to interdict merchandise, including drugs, being brought into the country illegally. The Customs laws now on the books, to a large extent, are intended to deal with the importation of legitimate merchandise. Thus, the enforcement provisions generally address situations where legitimate goods are imported in violation of law. Let me emphasize that these laws are used in drug enforcement, but they are not as potent as they should be for meeting the drug menace.

To modernize the Customs enforcement laws and to specifically meet the drug challenge, the administration recently sent to Congress the proposed omnibus legislation which is entitled the "Customs Enforcement Act of 1986." This act is to a large degree designed to remedy existing weaknesses in the law by making the Customs laws more effective for the detection, apprehension, and punishment of drug violators.

H.R. 5310, essentially incorporates those portions of the "Customs Enforcement Act of 1986" that deal with drug enforcement. Thus, the Customs Service strongly supports those portions of H.R. 5310.

I now would like to briefly summarize the main enforcement provisions in H.R. 5310 and explain why these amendments are sorely needed. It should be noted that although these provisions are, to a large extent, directed at drug violations, they also will improve enforcement of other laws administered by Customs (e.g., commercial fraud). The bill would:

Sec. 112—1. Require all vessels arriving in the U.S. to report immediately to Customs (instead of having 24 hours to report which is presently allowed);

Sec. 115—2. Require persons entering the United States at land borders to enter only at authorized border-crossing points (instead of at any place as is now allowed by law); require passengers to report for Customs inspection and remain in the Customs area until cleared by a Customs officer;

Sec. 114—3. Increase penalties for noncompliance with Customs reporting requirements;

Sec. 121 and 130—4. Grant increased authority to gather evidence of violations of laws and regulations enforced by the Customs Service (by expanding our subpoena and search warrant authority);

Sec. 120—5. Tighten exemptions from fine, penalties, and forfeitures for common carriers;

Sec. 111 and 122—6. Clarify forfeiture provisions for prohibited or restricted merchandise;

Sec. 127—7. Clarify the Secretary of the Treasury's authority (consistent with 22 CFR Part 181) to exchange information with foreign law enforcement authorities; and

Sec. 119—8. Tighten forfeiture laws for vessels and aircraft used in connection with drug activities.

Chairman GIBBONS. Fine. I don't have a lot of questions, but I want to say we want to work with you, Mr. Commissioner, in tightening these laws. I am sure there are going to be people who say you are going to have us enter just through a few ports now and that is going to be very inconvenient.

As a practical matter, most people do enter through a very few ports and only a few people will perhaps be inconvenienced.

Mr. VON RAAB. If I might respond to that by picking up one of the statements that Congressman Rangel made. We will obviously administer these laws rationally and fairly, but the fact that we have or would have the power to require certain procedures will enable us to increase cooperation from the legitimate traveling community, and so we, of course, will work with your committee to make certain that we do handle these responsibly, but right now those people who would violate our laws are aware of some of the terrible loopholes in them, and as long as they are they will continue to use them.

Chairman GIBBONS. In my part of the world there are a number of legitimate fishermen who come and go, and while I would be happy to make them all come and go through the Port of Tampa, I don't think that it would work that well in the fishing industry, but I realize that there is also a potential for a huge loophole there. Many of these boats never touch foreign shores, but some do touch foreign shores, and, frankly, with a 24-hour reporting requirement, it has never been much of a problem, but I can see that we have got to get rid of that.

You can make the biggest haul on Earth and land it somewhere in Florida and have the ship unloaded in 24 hours and back out at sea, if we didn't put an end to it.

Mr. SCHULZE. Will the chairman yield on that point?

Chairman GIBBONS. Yes.

Mr. SCHULZE. Commissioner, won't that require additional personnel, and if so, how many?

Mr. VON RAAB. It is not my opinion that the reporting requirements of Customs will require additional personnel, substantial additional personnel for Customs.

Mr. SCHULZE. The 24-hour requirement?

Mr. VON RAAB. That is right. We are responsible for handling those reporting requirements as it is, so all you are doing is stepping up the requirement by 24 hours, so what it means is Customs will have to handle its responsibilities more quickly and more effectively, but they technically have the responsibility to receive those reports as it is, so the work load is merely being moved up by 24 hours.

Now, there is the thought of actually creating reporting stations. We are going to look into that. There is a lot of modern technology out there that is available now, and we are certainly looking into the possibility of giving known and trusted captains of ships particular frequencies in which to report, so there are lots of ways in which we can have a reporting system in my opinion that is not burdensome on the shipping community, and also not unduly problematic for Customs in its staffing.

Probably a few additional people will be put into that. We are adding additional people to the Customs staff anyway, particularly in the high risk areas. They will just have additional responsibility.

Mr. SCHULZE. Are you referring mainly to commercial shipping or pleasure craft?

Mr. VON RAAB. We are really referring to smaller boats. Most of them would be pleasure craft, and smaller shipping boats. Freighters obviously stay offshore.

Mr. SCHULZE. You mean when they are dealing in drugs they would normally stay offshore?

Mr. VON RAAB. Freighters usually stay offshore for a long time anyway so the reporting requirement is not a problem there. It is the smaller ships coming in from the Bahamas, most of which are coming back from a few days of holiday but some of which are bringing in drugs, and those are the types of problems that we are talking about.

Mr. SCHULZE. Is there a higher incidence of pleasure craft than commercial vessels?

Mr. VON RAAB. Oh, yes. I would say, just a rough guess, that 90 percent of the boats that we regard as high risk are converted, former pleasure craft boats that are now drug smuggling boats, but they still look like pleasure boats.

Mr. SCHULZE. When the chairman was discussing commercial fishermen and fisheries, aren't there areas where the boats come right into their own docks, their own ports, so to speak? Would that require Customs personnel to be stations.

Mr. VON RAAB. As it is now, if you actually——

Mr. SEIDEL. What the statute would do is give you the flexibility to treat different types of vessels in different manners as appropriate to the specific risk involved. Right now vessels which return from large fishing expeditions pull into their docks, call up the Customs Service for the necessary paperwork to be performed. They do have to enter if they are bringing back imported merchandise or if they have been to a foreign port.

The situation right now is that they have to have Customs people arrive there. This gives us more flexibility and we could make arrangements for specific types of vessels which present a low risk.

Under the present law, all vessels are treated similarly under the statute. The amendment would allow flexibility based on the risk.

Mr. SCHULZE. I believe it was section 111, we had monetary instruments. I think that is extremely important, and I guess I was unaware that they were not forfeitable in the past.

Mr. SEIDEL. There seems to be a difference of opinion among the district courts. Some of the courts have considered it as merchandise. The present definition of merchandise includes chattels of whatever description, and in plain English, that does include monetary instruments.

Unfortunately, a few district courts have taken the position that because monetary instruments are covered by a separate statute with its own reporting requirements that it is not subject to the normal Customs prohibitions and Customs forfeiture statutes, so we would include that within the definition here.

Mr. SCHULZE. Mr. Commissioner, tell us how by expanding your subpoena and search warrant authority we will be aiding this effort.

Mr. SEIDEL. If I may, Congressman, the problem with the present subpoena authority contained in the Tariff Act is it is limited to those documents which are required to be kept by 19 United States Code 1509, which generally relates to the import documents by the importer himself and it is only the documents that he is required by law to keep.

The problem is that many drugs are concealed in legitimate shipping containers or other carriers. Those other individuals right now are not subject to the subpoena authority under 1509.

We would broaden that so that if the reports relate to the investigation or inquiry, they could be subpoenaed. In addition, there are other types of investigations that Customs conducts related, for example, to the currency reporting, which the subpoena authority does not even extend to at the present time. One of the provisions in the bill would extend the authority to cover those as well.

Also, high technology exports are covered by the subpoena authority request that is in the bill.

Mr. SCHULZE. I see our colleague, Mr. English, is here and he is going to go on after your presentation, but I would like to have the opportunity for you to comment on his proposal, H.R. 5367, if you are familiar with it, which perhaps you know gives you an additional $350 million.

I don't know if you have had an opportunity to go over it.

Mr. VON RAAB. We have not officially reviewed that proposal, and since it does represent a substantial investment of taxpayer funds, I would not be comfortable in commenting on that until the Office of Management and Budget had an opportunity to review it.

Mr. SCHULZE. Thank you.

Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Guarini.

Mr. GUARINI. Mr. Commissioner, I want to thank you for speaking out strongly and frankly, and particularly in being so forceful in regard to the Mexican border, which is open and unguarded.

I know how you have really been out there in front. Mr. Rangel spoke that more resources were needed, and there are times, of course, that with the budget restraints we have cut back on the number of Customs officers.

Your job is a most difficult job, because we have so much on our borders all around our country, probably over 10,000 miles of border, and, of course, somehow or other we have got to get it under control.

One of the biggest problems we have is with regard to the Mexican borders.

Could you share with us your thoughts? I know that there are a number of questions that are of concern with the State Department. What should be done with regard to the Mexican border?

The U.S. Customs has testified before another committee that we had 1.2 million illegal aliens last year, and this year there is a projected 1.8 million, which is a 50-percent increase.

We know what has been happening in regard to the drugs that have illegally been coming into our country after we closed off Miami, so you have success in one part and then, of course, the problem emerges in another area.

Should we tighten our borders? Should we close our borders?

How serious is the problem, and what effective measures can we take in regard to our guarding the Mexican border?

Mr. VON RAAB. The amount of dangerous drugs crossing the Mexican border is at serious levels. I don't have the most recent numbers, but we estimate that somewhere over 35 percent of the heroin is coming into the United States across our southwest border.

Close now to 30 percent of the cocaine is being trans-shipped through Mexico across that border, and at least one-third of the marijuana is coming into this country out of Mexico.

What must be done there is the border's resources must be increased, and our law enforcement presence on that border must be strengthened.

The Customs Service has already taken steps to do that, with some of the resources that we have been able to identify within Customs. We have shifted a number of inspectional resources and investigative resources to that border over the next—well, I can give you an example.

Right now we have approximately 770 inspectors on the southwest border. I have authorized increases that will bring us up to almost 900. We have right now 275 agents or investigators on that border.

I have authorized increases that will bring that number up over 460. That is what has been done so far.

I believe, I know that there is some extensive discussion within the executive branch as to other plans for the southwest border. I read, as you did, the reports in Newsweek magazine, that there is a plan which apparently is called Operation Alliance, which will reflect a generalized response to law enforcement on the southwest border, and I believe that the plan is at some point in the near future, and I mean within weeks to disclose the details of that plan which are still being worked out, and I think you will find it substantially increases our law enforcement efforts and presence on that border.

Mr. GUARINI. I believe you said that one of the governors on the border is alleged to be growing narcotics on his own land, and there is a big question as to the cooperation that we are receiving from the Mexican Government.

The U.S. Coast Guard has said that many ships, seek sanctuary within the territorial waters of Mexico and we don't get any satisfaction because they become safe. I visited the border and I have seen huge lines every morning with large trailers of produce coming through, just being waved through because it seems like there is hardly any opportunity to inspect everything that is coming across the border, so it is like another sieve.

No matter how many people you put there, I have heard Customs people tell me that are in charge of the key points of the border that it is almost a futile operation. We say, yes, we will put more people there, and I know that you are doing a great job in wanting to tighten up the border, but do we have to close the border to make sure that this stuff doesn't come through, and do we have to use more of our military in order to get the kind of security that we need on the border?

Mr. VON RAAB. I think increased military resources to support the law enforcement effort on the southwest border is a good idea, and I think you will see that that will be taking place. The trade across the southwest border is not something that you can just cut off by closing the border. I feel comfortable in making that statement as this is the trade committee.

Mr. GUARINI. But you have seen these large trucks bringing tomatoes and agriculture across, and it is so easy.

Mr. VON RAAB. Yes.

Mr. GUARINI. Just to put it in one of these huge trailers, a little stash of cocaine or heroin, and it would go by completely undiscovered.

Mr. VON RAAB. Right. To use a Customs expression, one of the main purposes to which the additional inspectors will be put, and are being put on the southwest border, but you will only see the impact as more and more of these men and women are brought on, will be what we call secondary inspections, and that is trucks or bar trucks, produce trucks, pick-up trucks, campers, what have you, will be taken out of the free flow of traffic and brought into the secondary areas to be given more complete inspections.

I think that if you were to go down to the southwest border today, you would find that our secondary inspection areas, which is an area off the main flow of traffic, is not being used as much as it should be, and so what we are doing is putting more inspectors in there to do that work.

Mr. GUARINI. Right. But as I am talking to you right now there are miles of backed-up traffic. A lot of it just gets waved through because you just don't have the resources to check all of that.

Mr. VON RAAB. I would not say that it gets waved through. It may appear to you that it gets waved through, and I am not saying that there are not some officials who wave it through.

Mr. GUARINI. No. I don't mean intentionally. I just mean that pressure is so huge, and the lineup is so big, that the job is more immense and has more dimensions than you have resources to even handle.

Mr. VON RAAB. I think if you were to talk to Congressman Coleman, for example, from El Paso, he would not agree with you that we are waving traffic through.

Mr. GUARINI. I have talked with a number of border Congressmen, and they seem to sympathize in many parts with the Mexicans and that surprises me.

Mr. VON RAAB. The problem is critical. You are right. Too much traffic is going through without a sufficient inspection, and some of it must be examined much more thoroughly.

We plan to do that.

Mr. GUARINI. Are you making more use of dogs?

Mr. VON RAAB. We have put an additional 30 dog teams down on the southwest border. We are at full capacity at our dog training center, and will continue to be for the next year, training dogs in order to put them on the southwest border. Yes, we believe that dogs are not only a very, very effective inspection tool, but they are a very good deterrent because they can find narcotics, and, therefore, if people know the dogs are out there looking, they are less likely to try to hide them in that way, but I do not in any way want to sell the problem short.

You could not be more correct. The drugs are just streaming across that border, and Customs is increasing its resources, and increasing the level of its inspections, and we are going to keep working on it.

Mr. GUARINI. But if we don't get our act together soon, and there is more and more that is coming through, could you ever foresee the day when we would have to close the borders?

Mr. von Raab. Mr. Congressman, I think it is in my own personal interest not to answer your hypothetical question there, if you will permit me.

Mr. Guarini. I will withdraw the question. I think your refusal to answer it answers it by itself.

Mr. Daub.

Mr. Daub. Mr. Chairman, thank you very much.

I am interested in pursuing the issue of military resources at the border.

Mr. von Raab. Would you like me to give you an idea of the kinds of military resources?

Mr. Daub. You indicated we might know more here shortly. I presume from the way in which you commented that you understand how we might feel when we are left out of things, too.

Mr. von Raab. Right.

Mr. Daub. Maybe you might elaborate, at least if you are not making an assumption on operations, what we might do.

Mr. von Raab. I think a very, very important event that took place some weeks ago which Vice President Bush described was the signing of the national security directive declaring that narcotics were a national security issue. What is obvious in that position taken by the White House is that the military, the use of the military, is more likely.

As far as the southwest border is concerned, there are lots of military resources down there, and I am talking here of physical resources, because under the law the personnel of the military is not to be used to support law enforcement in the arrest or the actual hands-on work, but there are a lot of surveillance planes.

There is sensor technology that is available. All of those types of equipment I believe should be brought to bear to help support the Customs effort, particularly in the area of air interdiction, which is a serious problem on not only the southwest border, but particularly on the southwest borders, because basically you have a free pass into the United States right now across the southwest border, so military resources, radar, radar planes, manning of radar, that sort of thing, would be of great assistance to Customs in its efforts to deal with the illegal air traffic coming across our borders.

Mr. Daub. Is it a good idea or a poor idea to actually physically use uniformed personnel of National Guard, Army, or Marines along the southwest border?

Mr. von Raab. The degree to which they can be used is an issue. If they are Federal troops, then there is an actual proscription against their use in law enforcement in the sense of direct involvement.

If they are under the Governors, they are operating as State militia, then that proscription does not apply. Then you get into the issue of who pays for it, and much to my surprise, I discovered that a large percentage, way into the 90's of the State militia budget is paid for by the Federal Government.

I would like to see the States ante-up some of their own resources to use those National Guard troops in their State militia role to assist in these efforts.

There is a lot of work that could be done, and we are going to look into that.

Mr. DAUB. I have one more question.

I am particularly anxious that our colleague Mr. English get a chance to be with us shortly. Tell me your opinion about the law as to the confiscation of assets, the appropriation of equipment, trucks, campers, the sequestration of that asset, and the liquidation of the total treasury of the United States as a source of revenue for paying for some of the increased costs of interdiction and border surveillance.

Mr. VON RAAB. The establishment of our forfeiture fund has proven to be a very, very helpful tool for the Customs Service. We right now are able to draw upon the enforcement or the forfeiture fund to recondition, to refurbish equipment that we can seize, and to pay for information. It is particularly useful.

It is also very important for the morale of the men and women who work in the Customs Service to be able to see that the results of their actions are directly reinvested in their efforts.

It is also very important in developing a closer working relationship with the States and local officials to be able to turn those resources, where the State and local people have played a role, over to State and local officials, so that they can use those resources in their own efforts, because often the State budgets are even tighter than the Federal budget.

I am a great supporter of that direction.

Mr. DAUB. Your recommendation, Mr. Commissioner, is to double that?

Mr. VON RAAB. No. I am not recommending doubling it. I think that is, once again, an Office of Management and Budget call. All I can tell you is that availability of those funds to the Customs Service at their present level has been extremely useful.

Mr. DAUB. Are there any impediments or any legal restrictions, a better way of saying it, is could we make the potential for forfeiture or even if there has to be some kind of a court proceeding, are we reaching far enough into the assets, particularly of the American citizen who traffics? Are there some places where we can make it tougher on the people we catch who are citizens of this country and/or if there are foreign nationals who have assets in this country, such as land, boats, and college trust funds for their kids?

Are we able to reach far enough with the law to trace assets to just plain take them away from traffickers?

Mr. DOWNEY. It is unconstitutional.

Mr. VON RAAB. The provisions of the Crime Control Bill of 1984 did a pretty good job in clearing away a lot of the procedural problems that existed in dealing with those issues. Although I did understand the chairman to say that you were going to continue to look at this bill to see if it could be improved, my immediate reaction to that is that the Comprehensive Crime Control bill did a very good job.

I am not aware of that problem particularly when it comes to foreign assets, but we will certainly look at it as this review continues.

Mr. DAUB. If there are any things that could be done on forfeiture that simply from a redtape point of view don't allow it to occur in an expedited way, or if the constitutional idea that you can't take somebody's property without due process, which I do remember learning somewhere, but in a way as Charlie Rangel said, if we are going to declare war on something and if we are going to declare war——

Chairman GIBBONS. Without just compensation.

Mr. DAUB. Just compensation can be waived in the event it is a 10-year jail term. There are ways of figuring out some new solutions to what is not rightfully yours when you are damaging the property and the minds of a lot of other people.

Thank you, Mr. Chairman.

Chairman GIBBONS. You have always been able to seize contraband since the beginning of the 1790's laws, which is allowed without just compensation and very little process.

Mr. Downey, because there are some other members here, I want to say that we got off to a lousy start this morning. When I picked up this bill I found there were no Republicans on it, and Mr. Schulze in his inimitable way raised that issue early, and I want to make it clear to all members present now that we are going to start back over and make a valiant attempt to get Republicans to help us cosponsor this legislation.

It is not the intention of the Chair to try to exclude anybody from being a cosponsor, but rather to try to encourage everybody to be a cosponsor, and to try to improve it as we can, including the financing of it.

Mr. Downey.

Mr. DOWNEY. Mr. Chairman, I would hope that we do that. I think if there is one issue on which all of us agree, it is that this is a clear menace.

Chairman GIBBONS. That is right. We will introduce another whole new bill, tear this one up, and throw it away and start over again.

Mr. DOWNEY. I would hope so.

Chairman GIBBONS. We would ask that Mr. English join us on this bill, too, since he is the primary author on a lot of these things.

Mr. DOWNEY. Mr. Chairman, if I can, I am afraid that the zeal we are all bringing to this issue is a lot like energy conservation was a few years ago or hula-hoops in the fifties or yo-yos, that it is less likely unless we are prepared to spend the time and the money, that it is just a fad. I hope that is not the case. The recent issue in this issue is important and necessary, but it is going to clearly require that we spend a lot more money than we have spent in the past, and spend a lot more time than we have on this than in the past, and do it on a long-term, ongoing basis or we will certainly fail.

I have the sense, Commissioner, that by the time we get to the Customs, we have already lost this war. What percentage of the drugs that come into this country are interdicted by the Customs agency? What percentage of the total?

Mr. VON RAAB. That is the $64 question, and it is one that I am always extremely reluctant to attempt to answer, but it certainly is a percentage that is below what I would regard as an acceptable level, and that level is the level at which there is a profitable commercial enterprise in bringing drugs into the United States.

Mr. DOWNEY. What is the number? I follow batting averages and other things. I am a big baseball fan.

Mr. VON RAAB. The estimates that are typically used have been 5 percent or so of the heroin, somewhere around 25 to 30 percent of the marijuana, and somewhere between 30 and 40 percent of the cocaine.

Mr. DOWNEY. Is it going up or down, the amount?

Mr. VON RAAB. The interdictions are going up. The interdictions are going up, but so is the production.

Mr. DOWNEY. So is the production?

Mr. VON RAAB. Yes.

Mr. DOWNEY. So that the net is that there may still be more coming in?

Mr. VON RAAB. The net is that there is more volume coming in, but our batting average is better, and we are still being struck out more times than we should be.

Mr. DOWNEY. Yes, it is a lot like Ron Kittle, I am afraid. In any case, I am interested before we pass this legislation in knowing whether or not you believe that the amount of money and with this new authority we are going to be much better, a little better or not much better.

What is this going to do for us when we pass this legislation? What can I go home and say?

Well, we passed a big bill. We spent a few hundred million dollars. Is it going to make really much of a difference?

Mr. VON RAAB. Well, it will make a difference, but I think everyone has described it as a moderate bill. Basically, it is bringing into the 20th century the laws under which Customs operates and deals with the contraband problem. No longer will we be dealing with smugglers on the basis of laws of 1789, but we will be dealing with them under laws of the 20th century.

It would not be fair to say that this is a blockbuster of a bill that is going to solve the drug problem, but it is an important bill.

Mr. DOWNEY. What would a blockbuster of a bill look like?

Mr. VON RAAB. A blockbuster of a bill would take a lot of work and a lot of wrestling with some very, very serious constitutional issues over the freedom of people to cross our borders, and under what circumstances, and I think maybe you would want to entertain that sort of a discussion.

I am a hard-liner, maybe the hard-liner in the administration, on drug interdiction, but this is an ordered society we live in, and it is a question of what privileges you want to grant to your citizens against the restraints on prospective criminals, and I think that this bill is very responsible.

It certainly works within the generally accepted criteria of constitutional protections. When you go any further, you are going to get into the issue of what unilateral action the Customs Service can take in dealing with possible criminals crossing our borders.

Mr. DOWNEY. I had an opportunity to spend about an hour with Fernando Illanes, the Bolivian Ambassador to the United States several weeks before the effort that we made to go after the drug manufacturing centers in Bolivia, and I strongly supported the President in that effort, but my guess is—and he told me just some hair-raising things about the level to which Bolivian society has been consumed by cocaine traffickers, and that even high levels of the government were deeply involved in this.

It doesn't come as particularly an atomic secret to anybody. But the point that he made to me and it seems particularly valid here, is that if you are clearly interested in dealing with the problem in an effective way, that you have got to educate people to reduce the demand, and at the same time you have got to be prepared to go after the supply at its weakest link, and that is at these manufacturing levels, because once it is outside the manufacturing level, and once it is being grown, you are just dealing with too many players.

Is that a fair assessment of the problem, do you think?

Mr. VON RAAB. The fairest assessment is that you have to view each of the parts of the trafficking chain as being as important as the others. Customs is particularly concerned about cocaine because it thinks interdiction is a particularly good tool to deal with cocaine.

The volumes that must come in, the way it is transported, and the places where it comes in, we think makes Customs a particularly good place to work on the cocaine issue. The Coast Guard is particularly good on marijuana, because the volumes are even greater, and, therefore, they use large ships out at sea, and the Coast Guard is doing a great job on that.

Heroin is particularly amenable, if you will, to domestic investigations, because of the way that heroin is trafficked, that is, known organizations, tightly knit organizations, and large urban centers.

Cocaine is a particular problem for domestic investigations, because every man, woman and child who thinks that he is sophisticated is taking cocaine. Millions of people are doing it. It is not just a few places where it is going on. Therefore, the best, the tightest part of the funnel in my opinion is at the border for cocaine.

That doesn't mean you shouldn't do domestic investigations, but I mean there is a good place to detect it.

Production is a focal point for cocaine as well, because it is certainly known that it is grown mostly or the largest percentage, in Peru, then Bolivia, then a smaller amount in Colombia, and manufactured, so to speak, in those places, and then further refined into the hydrochloride, usually in Colombia, so that is a good place to go for production limitation, whereas heroin is a terrible problem because most of the heroin is produced in areas that are either not controlled by us or controlled by Communists, and, therefore, we can't, or whatever you want to call the Iranians—I am not sure what they are.

Mr. DOWNEY. No. I don't think they would appreciate a Communist rubric, but something more fundamental.

Mr. VON RAAB. That is my quick analysis of the problem, but cocaine I think is particularly susceptible at the production level and at the interdiction level.

Mr. DOWNEY. Can I ask you one other question about marijuana?

Is there any sense when you look at this problem from dealing with the problem that a different approach to marijuana as opposed to cocaine or heroin makes sense?

That legalizing it and a sale at liquor stores and other places makes any sense? I mean, are those things being contemplated?

Mr. von Raab. I have too much respect for the dignity of the American citizen and resident to subject him or her to a drug that has no redeeming social purpose whatsoever.

Mr. Downey. Does alcohol?

Mr. von Raab. I would have the same opinion about alcohol if 95 percent of the people in the United States consuming alcohol were potential addicts. The fact of the matter is that if you compare cocaine and alcohol, what you have got is a situation in which I would say 95 if not a higher percentage of the people who use cocaine will become addicted to it. If you had that situation with alcohol I think you would outlaw it in about 2 seconds, but you don't have that.

It is a very small percentage. I also like to drink wine and I think a glass of whiskey tastes good. That is why I drink alcohol, because it tastes good.

Mr. Downey. That is terrific, but that is not my question. My question had to do with marijuana. What percentage from the studies you have seen of people who use marijuana become addicted to cocaine and go on to heroin?

Mr. von Raab. A high percentage, too high.

Mr. Downey. What is high?

Mr. von Raab. I don't know the answer to that.

Mr. Downey. Half, more than half, less than half?

Mr. von Raab. I don't know the answer. I would have to say it is a substantial percentage, in addition to which is just the whole idea of the drug being a narcotic, the sole purpose of taking marijuana is to change your character, to change your personality, and basically it is degrading. What you are doing is admitting that you can't deal with life the way it is, and you are going to take some artificial substance to enable you to do it.

Mr. Daub. Would the gentleman yield on that point?

Mr. Downey. Sure.

Mr. Daub. I know talking to high school people in my district and asking them on this faceless subject how many of you had marijuana and then tracking that back asking did you start off with the heroin or the crack or the other substance first or did you start with marijuana, and invariably they started with marijuana and then went on.

They didn't go to the other problems first. They had started with marijuana. And it wasn't just cigarettes first and then the harder stuff. It was marijuana first and then the other.

Mr. Downey. The reason I asked the question is——

Mr. Daub. Regardless of the degree of danger or the point that was being made here.

Mr. Downey. The studies that I have seen suggest that there are 40 million people who have tried or used marijuana, and there are 5 or 6 million, whatever number, that use cocaine. I am not advocating its legalization, but I am concerned that there is a difference between marijuana and cocaine, cocaine and heroin, and that is obvious, and that what is also obvious is that part of the oil of organized crime is the sale and trafficking of drugs, all sorts of drugs, and if you could take some of the potential profit from some of it, you could make, I think, a very big difference.

First of all, you could concentrate your efforts on more dangerous drugs without making any moral judgments as to the people who use marijuana and for what purpose, as I would make that argument, I think it would be on pretty slippery ground making the argument that there aren't people who degrade themselves by the use and abuse of alcohol, because I suspect there are, and I suspect there are lots of people who don't degrade themselves by the use of marijuana but I don't think that is the issue.

Mr. DAUB. I appreciate the gentleman's point.

Mr. DOWNEY. To me it is a question of resources and what is more dangerous. If it is clear that people go from marijuana directly into cocaine and that there is a tremendous incidence of that, we would be foolish to go ahead and do it. I am curious.

I think a lot of these statistics, and with all due respect to the Commissioner, are just numbers that people develop like Stockman developed some of the numbers for the budget. It is 7 percent growth, no, it is 5 percent growth if you have got glasses and are left handed, it is 3.5 percent, so I think that we have got to be very careful here about generalizations and other things.

I support these efforts strongly and I will be voting to provide more money for that. I am a little concerned that it is not making a whole lot of difference.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you. Are there further questions on this side?

Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman.

I apologize for tardiness. I was locked up down at the White House discussing another trade issue this morning. Let me ask you a couple of questions.

What do you contemplate would be the total cost to implement this package?

Mr. VON RAAB. The Customs Service would not ask for any additional resources in order to administer or implement and enforce these laws.

Mr. CRANE. You don't think it would require increased funding levels?

Mr. VON RAAB. First of all, the funding coming to Customs is on a slow rise as it is, and resources that would be required by this would be hard to calculate, and I really don't think it is material to consider the additional costs, if any, that this would require.

Mr. CRANE. The second question is, Have you given thought to ways in which Customs could coordinate with our military in some of the interdiction, especially of drugs?

Mr. VON RAAB. This has been going on for some time, and as I was pointing out before you arrived, the issuance of the national security directive declaring the narcotics issue a national security issue will further make that an easier issue, but I don't want to in any way indicate that it is not going on.

I mean there is an actual office in the Pentagon that deals with nothing but the Customs Service and the Coast Guard and DEA in providing resources to it, and we get substantial support from them, which has increased year by year. Congressman English is here.

He is an expert on that area, but it has gone up, and it is a totally different world from pre-December 1981, before the changes in the posse comitatus act.

Mr. **Crane**. I have been to Florida. I have a friend who has got a home on the inland waterway, and he is probably no more than a mile from the ocean, and there is a home next door where a ship comes in, I think, from the British West Indies, but he told me something about this 24 hours to report.

Now my understanding was that vessel could pull into that house and they had 24 hours before they had to talk to you people or go through Customs.

Mr. **von Raab**. That is right.

Mr. **Crane**. Doesn't that make it virtually impossible to interdict any contraband if he was bringing it in?

Mr. **von Raab**. Unless he were a very honest smuggler and would call us up and say he had just smuggled.

Mr. **Crane**. I was stunned when they told me that, and I notice that the first point that you stress here is to have them immediately report to Customs.

Mr. **von Raab**. Right.

Mr. **Crane**. It just occurred to me that he could have had the whole boat—and it is a big, big boat—he could have had the thing loaded to the gunwales with all kinds of opium or cocaine or whatever, discharged it all and then he comes to see you 24 hours later and says he has an empty hold.

Mr. **Seidel**. That is historical. This specific statute goes back to 1789 when the sailboats used to pull into a harbor and it would take them that long to get long boats over the side, pull into a Customs facility and have the single inspector in the port come out to give them the necessary preliminary clearance, and very frankly they have modernized it slightly, but otherwise it is still a 1789 statute, and as you know, we have lots of long boats down in Miami. Cigarettes can do the trip in 40 minutes now from the Bahamas.

Mr. **Crane**. It takes Congress a long time to act.

There is another potential problem I can see here. I have crossed that border from Texas over to Mexico, near Tijuana, and a lot of traffic there goes back and forth every day. Is this going to create a major bottleneck? There are a lot of workers from Mexico that cross over to Texas. They work during the day and go back home in the evening.

Mr. **von Raab**. They are crossing it at appropriate points now. The point is that what is little known is that if they decided not to cross at the Customs area, our powers, unless they are smuggling, really are virtually nil.

Mr. **Crane**. It wasn't that part so much as the requiring of the passengers to report for Customs inspections. I was just contemplating a bottleneck of tremendous magnitude.

Mr. **von Raab**. I will tell you what it means basically. If a plane were to land at an airport and the passengers decided not to report to Customs, they really don't have to.

Mr. **Crane**. They don't have to under existing law?

Mr. **von Raab**. No.

Mr. **Seidel**. There is no penalty for the passenger to fail to report to Customs. If you find them with merchandise, yes, but the pilot has to report.

Mr. **von Raab**. We have to chase them down in the street. If it turned out they weren't carrying anything, then they would not have done anything wrong.

Mr. **Crane**. But would this apply, though to those day workers?

Mr. **von Raab**. They are already doing this.

Mr. **Crane**. Oh, they do that?

Mr. **von Raab**. Yes.

Mr. **Crane**. Except I think every time I have crossed that border they just wave me through.

Mr. **von Raab**. You must have a friend.

Mr. **Downey**. It might be the congressional seal on your car that they don't want to stop.

Mr. **Daub**. Try going incognito.

Mr. **Seidel**. If you give us a license plate, I am sure we can arrange for a different treatment when you come through.

Mr. **Downey**. A big body search.

Chairman **Gibbons**. Run for President, that's all.

Mr. **Crane**. My only thought was if all those day workers have to go through customs on a daily basis that way——

Mr. **von Raab**. They have to do that now.

Mr. **Crane**. They have to do that now?

Mr. **von Raab**. Yes, they do. We forced them to do it by the physical setup, but as I was indicating to the chairman before, we don't like to disclose some of this, but there are some loopholes in our laws that people are just not aware of, except for the bad guys. So the good guys are reporting anyway. But it's the bad guys that know about them, and what we are trying to do is impose the laws that would require the violators to report. The good guys are already obeying the reporting requirment, although current law does not require them to do so.

Mr. **Crane**. So as things stand right now, it is only the law-abiding smugglers.

Mr. **von Raab**. Exactly.

Mr. **Crane**. That will conform? I thank you for your testimony, and again, I apologize for being tardy.

Mr. **Frenzel**. Mr. Chairman, I want to thank the Commissioner and his associates for being with us. We have a distinguished subcommittee chairman who has been waiting to testify, and I waive my time.

Chairman **Gibbons**. Thank you very much

Good luck in defending that border. I tried it in 1941 with about 5,000 troops, and we were able to stretch from Yuma to about Bisbee, and there wasn't one Japanese that got through. If he did, he didn't report to us. Thank you very much

Mr. **Seidel**. Thank you very much, Mr. Chairman

Chairman **Gibbons**. Mr. English is the distinguished chairman of the Subcommittees on Government Information, Justice, and Agriculture, of the Committee on Government Operations. My intelligence tells me that he has perhaps done more work on this problem than all of us put together. We are happy to have you here, Mr. English.

STATEMENT OF HON. GLENN ENGLISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA, AND CHAIRMAN, SUBCOMMITTEE ON GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE, COMMITTEE ON GOVERNMENT OPERATIONS

Mr. **English**. Thank you very much, Mr. Chairman. I certainly want to take this opportunity to speak in support of H.R. 5310, which amends the Tariff Act of 1980 to increase the authority of the Customs Service, certainly in terms of drug interdiction.

This "War on Drugs" that we keep hearing about is really waged by two agencies, namely the Coast Guard on the high seas, and the Customs Service in the air and at our land borders. H.R. 5310 is very similar to legislation that I have introduced, namely H.R. 3479, which I introduced last session, and I appreciate the chairman's invitation to join in supporting H.R. 5310. I would certainly like to do that.

Mr. Chairman, the Customs Service demands a great deal from its agents and inspectors. Its enforcement personnel have responded to the extent that they can, but they are overwhelmed. Anything that we can properly do to make their jobs easier, and their successes more frequent, we must do. Clearly, these increases in authority as contained in H.R. 5310 are long overdue. It is good as far as it goes, but it really addresses only part of the problem, Mr. Chairman

Just in terms of cocaine, the increases in trafficking have simply been incredible. In 1985, it was estimated—and I strongly underline the word "estimated" because quite frankly no one knows; this is nothing but a guesstimate—that some 75 tons of cocaine were smuggled into the United States. In 1986, it is indicated that those estimates were way low.

Now it is estimated at 150 tons, and for all we know the numbers may be a good deal higher than that. This increase, quite frankly, has been building over a number of years, and as I said, the Customs Service is simply overwhelmed. What I would like to do is go through some of the concrete examples of just how bad it is, because I think, until we look at specific areas and specific points, it is really difficult to get a handle on this particular issue.

To be able to succeed in the air interdiction, for instance—and keep in mind that the estimates are better than 60 percent of the cocaine that is entering the United States today is coming in by air—most of the marijuana is coming in by sea simply because of the bulk, as the Commissioner pointed out, but to be able to be successful in an air interdiction program, first of all you have got to be able to detect a smuggler. You have got to see the guy out there. You have got to be able to intercept him, go up to meet him, have some visual or radar contact to be able to follow him. And when that person lands, you have got to be on the scene with law enforcement officials to make the arrest.

The Customs Service, quite frankly, can do none of these functions reliably anywhere in the country. There is not a single one of these groups of functions that they can do properly anywhere in the country. In fact, in the entire Customs Service national inventory there are only four detection aircraft for the whole country, and there are only six properly equipped interceptors that meet the standards of adequacy as defined by the Customs Service. And moreover, there are only eight helicopters that also meet the standards that can take these bust teams or these law enforcement officers to the scene so they can make arrests.

As I said, over 60 percent of the cocaine is coming in on small, private aircraft. Our detection system in many areas of the country consists of customs officers going up in small, twin-engine airplanes with a pair of binoculars, looking around to see if anybody looks suspicious. That is pretty much the extent of it, the detection in many of the long, critical areas along our border systems.

Not only that, we find those guys going up with binoculars only fly in the daytime. They don't have enough equipment to be able to fly at night. And according to the drug smugglers, 90 percent of the drugs coming into this country come in at night. There is no one up there to challenge them. Not only that, of the 8 air support branches that Customs operates, we find on an average that these branches function today only 6 hours a day, 5 days a week. That means two-thirds of the time there is not anybody even there. There is nobody there to even answer the phone.

We had discussions about military assets. Even if AWACS is up flying and they see some guy that looks suspicious, in many areas they don't even call in because there is nobody to respond. Nobody is there. Even if they were there, they don't have the aircraft to go up and challenge these kinds of smugglers. Under these circumstances it is not surprising that we have tons upon tons of cocaine coming into this country, with our borders as poor as they are.

Customs has testified it is going to require a minimum of 650 people in its air interdiction program to bring them up to the level they are shooting for, the target they are shooting for, which is 16-hour days, 7 days a week. That still means there is going to be a third of the time that there won't be anybody there, but that is their goal, their target, to reach that kind of a level.

Today, they only have 271 people out of the 650 that they say are needed, and we have authorized, Congress has authorized, 388 positions. We have 117 vacancies that have never been filled. Even if they attain that goal, as I said, there is still going to be a portion of the day in which they will not be able to fly. They will not be able to challenge the smugglers.

There are vast sections, particularly along the southwest border, and this particularly points to the Big Bend area of Texas that the Commissioner was referring to, where there is absolutely no radar, no NORAD, no FAA. They can't see a thing. You fly in at 14,000 feet. You can fly a building as big as the Capitol in these areas at 14,000 feet and nobody is going to see it. Our national defense system is not going to see it, FAA is not going to see it. And the drug smugglers know where those spots are. There are other gaps all along the border that exist that allow these smugglers to fly in virtually unchallenged.

For 10 years there has not been an administration request for any customs marine interdiction, so it is not just a Republican administration; it is the Democratic administration as well—absolutely no requests. Anything that has been done, quite frankly, has come out of the Congress. And last year, for instance, the Congress provided 40 additional pursuit boats, most of which are going to be going to south Florida.

But we don't have sufficient personnel to man those boats, so I assume that unless something is done, unless the Congress takes some action, we are going to have 40 new boats sitting down in south Florida to go chase drug smugglers, and we are not going to have anybody to drive them. They are just simply going to sit there, and that is not too far off from what we have been doing up to this point with the confiscated boats that the Customs Service has had. They often don't have the money to repair them. They have had boats sitting at docks for months on end because there are no repairs to those boats.

We had estimates from the Drug Enforcement Administration that as many as 3,600 boats a year may be coming from the Bahamas, 90 miles away, into south Florida carrying drugs virtually unchallenged, and we haven't had the resources with which we can take those on.

On the west coast of the United States, from San Diego to Seattle, the Customs Service has only eight boats to meet their own operational specifications, and most of these cannot even operate on the high seas. They are used only as harbor patrol boats.

Despite the speed which Customs must respond in air chases, there is no command and control center anywhere in the United States to direct all these assets. Their aircraft, in fact, can't even routinely communicate between a boat and an aircraft, a Customs boat and a Customs aircraft. They can't communicate with each other. Any boat that is more than 5 miles away can't communicate with another boat. DEA can't communicate with Coast Guard, who can't communicate with Customs. There is no communication taking place. Even if they did, the smugglers could listen in on them because there is no secure communications system existing anywhere in these law enforcement efforts, whether it is Customs or Coast Guard.

Well, there is in the Coast Guard in some areas but not in Customs or DEA. We don't have that kind of system. In fact, recently in south Florida there was an arrest made of a drug smuggler, and he had in his possession—and I believe that this subcommittee has a copy of that—64 pages of a listing of all the radio frequencies used by law enforcement agencies, whether it is county, city, State, DEA, Customs, even military installations had all the radio frequencies.

We have had arrests made in which we have found vans chock full of scanners, Bearcat scanners, and all they do is just sit there and they scan and they can radio back and forth on secure communications to the smuggler aircraft, letting them know if there is anybody out there that might be in their way, that might be a threat to them. So under the circumstances I don't think that it is any real mystery that a lot of drugs are coming into this country, and that our overall law enforcement effort in this area has been less than what we would all desire.

Mr. Chairman, my subcommittee has convened 38 hearings into these problems in the last 5 years. In response to the Speaker's request for an omnibus bipartisan piece of legislation to boost our war on drugs, I introduced H.R. 5267, which has been referred to this committee. To say that you are reporting legislation to the Speaker on a fast track I think would be an understatement.

I know that this subcommittee has not had the opportunity to evaluate in depth H.R. 5267, but I would certainly urge, Mr. Chairman, that you take a hard look at it, and that this legislation be moved to the Rules Committee so that it could be considered as a part of the overall package that the minority leader and the majority leader and the Speaker are considering.

What it authorizes is $348.4 million to give the Customs Service the manpower and equipment to meet these responsibilities that I mentioned.

The final page of the statement that I think you have got a copy of there lists the things that this would make possible. Most of the authorization is one-time expenditures; $51.5 million is for personnel, and would be recurring, as would the operations and maintenance funding for new aircraft and boats, obviously.

How can we say that we have a war on drugs when the air support branches are only functional for 8 hours a day? How can we say that we are doing our best when we don't even have enough people to get the boats away from the docks to challenge these smugglers? How can we say that we are supporting our law enforcement effort when Customs officers can only talk to each other if they are within 5 miles of each other, and even then not over secure communications?

What kind of defense against drug smugglers are we mounting when we have no radars, no command and control ability, and too few aircraft to even go up and make a challenge?

Mr. Chairman, this bill does not conflict with the President's position that he stated only yesterday. He announced a six-point strategy against drugs and included increased support for law enforcement as one of those points. According to this morning's Washington Post, the President said, "There is going to be a cost. We are going to have to find the money somewhere." And certainly the Speaker and the minority leader and the majority leader have all said the same thing, and I would suggest to you, Mr. Chairman, in going through each of these points, I think that you will find that each addresses a gap that presently exists.

It allows us to have a credible threat to the drug smugglers as they enter this country. Also, in response to what Mr. Downey said, I would also agree that the closest to the source we can capture and interdict these drugs and intercept them, the better off we are. The streets of America are the wrong place to begin a war on drugs, and quite frankly that is where we are now. If we can stop them back at the source, great. If we can stop them when they are coming into this country, whether by ship or by aircraft, that is great. But the fight has to be continued all along the line, and we have got to have a credible threat.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF THE HONORABLE GLENN ENGLISH

CHAIRMAN, SUBCOMMITTEE ON
GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE
COMMITTEE ON GOVERNMENT OPERATIONS

Thank you for this opportunity to speak in support of H.R. 5310, which amends the Tariff Act of 1980 to increase the authority of the Customs Service. In terms of drug interdiction, this "war on drugs" that we keep hearing about is really being waged by two agencies: the Coast Guard on the high seas, and the Customs Service in the air and at our land borders.

H.R. 5310, which is very similar to H.R. 3479 which I introduced in the last Session, increases penalties for:

- violations of reporting requirements for ships, aircraft, and vehicles;
- unlawful unlading and transshipment of cargoes; and
- false or missing manifests.

Further, the bill enhances Customs' authority in several law enforcement areas, including:

- search, seizure, forfeiture and disposition of conveyances;
- establishment of "commercial covers";
- treatment of hovering vessels; and
- compensation to informers.

The Customs Service demands a great deal from its agents and inspectors. Its enforcement personnel have responded to the extent that they can, but they are overwhelmed. Anything that we can properly do to make their jobs easier, and their successes more frequent, we must do. Clearly, these increases in authority are reasonable and long overdue. But H.R. 5310, as good as it is, really addresses only part of the problem.

Just in terms of cocaine, increases in trafficking have been incredible. In 1985, it was estimated that some 75 tons of cocaine were smuggled into the United States. The estimates for 1986 exceed 150 tons. This increase has been building for years. I just said the Customs Service is overwhelmed. Let me give you some concrete examples of how bad it is.

At a time when we are experiencing record levels of drug trafficking into this country, here is how the Administration has treated the Customs Service, its primary drug interdiction agency, since 1982. The President has asked the Congress to let him:

cut 892 positions in Fiscal Year 1982;
cut 1,564 positions in FY 1983;
cut 1,775 positions in FY 1984;
cut 1,000 positions in FY 1985;
cut 887 positions in FY 1986; and
cut 770 positions in FY 1987 (which, combined with Gramm-Rudman cuts, would have exceeded 1,500).

Congress has restored many of these positions, but those were the President's official requests, and the Customs Service today employs fewer people than it did in 1980. Every new employee, boat or airplane which has been authorized for the Customs Service in the past 5 years has been at the initiative of the Congress and over the objections of the Administration.

A few more examples:

- Success in the air interdiction mission requires that Customs be able to: (1) detect incoming aircraft, (2) intercept those targets, and (3) arrest the traffickers. Customs can do none of these functions reliably anywhere in the country.

- In the entire Customs national inventory there are only 6 interceptor aircraft which meet their own standards of adequacy. There are only 8 helicopters for the entire nation.

- 62% of the cocaine entering the United States arrives in small, private aircraft. With responsibility to interdict these aircraft, Customs operates 8 air interdiction support branches. On average, these branches function today at an 8 hour-per-day, 5 day-per-week level of operations.

- Customs has testified that it requires a minimum of 650 people in its air interdiction program to operate the air branches on a 16 hour-per-day, 7 day-per-week basis. It has only 271 people in this program today. (They are authorized 388 positions, but have 117 vacancies.) Even if they attain this goal, 16 hours-per-day, it still leaves the borders of this country unguarded one third of the time.

- There are vast sections of the southwest border, including the Big Bend area of Texas, where no radars (to include NORAD and FAA) can see aircraft operating below 14,000 feet.

- There has not been an Administration request for new assets in the Customs marine interdiction program for the past 10 years. Last year the Congress provided the Customs Service 40 additional pursuit boats for drug interdiction operations. There are not sufficient personnel to operate the new equipment.

- On the entire West Coast of the United States, from San Diego to Seattle, Customs has only 8 boats which meet their own operational specifications. Most of these cannot operate on the high seas, and are only used for harbor patrol.

- Despite the speed with which Customs must respond during air chases, there is no coherent command and control capability within the Customs Service. Their aircraft cannot routinely communicate with their boats or cars. Their boats cannot communicate with each other beyond a range of 5 miles.

- The radios of the Customs Service, Coast Guard, and Drug Enforcement Administration are not compatible. They cannot communicate with each other on a routine basis, and almost never in a secure mode. My Subcommittee on Government Information, Justice, and Agriculture is in possession of a 64-page listing of every law enforcement and military radio frequency in the southeast. The list was seized from a drug trafficker who easily monitored these enforcement agencies as he conducted his smuggling ventures.

My subcommittee has convened 38 hearings into these problems in the past 5 years. In response to the Speaker's request for omnibus legislation to boost our "war on drugs", last week I introduced H.R. 5267, which has been referred to this committee. To say that you are reporting legislation to the Speaker on a fast track would be an understatement, and I know that you have not had an opportunity to evaluate H.R. 5267, but I urge you to send it up as part of your contribution to the omnibus package.

It authorizes $348.4 million to give the Customs Service the manpower and equipment it needs to meet its responsibilities.

The final page of this statement contains a list of the things H.R. 5267 would make possible. Most of the authorization is for one-time expenditures, but $51.5 million is for personnel, and would be recurring, as would the operations and maintenance funding for new aircraft and boats.

How can we say that we have a war on drugs when the air support branches function only 8 hours per day?

How can we say we are doing our best when we don't have enough people to take the boats away from the docks?

How can we say that we are supporting our enforcement effort when Customs officers can only talk to each other if they are within 5 miles of each other?

What kind of defense against drug traffickers are we mounting with no radars, no command and control ability, and too few aircraft to matter?

This bill does not conflict with the President's position as he stated it only yesterday. He announced a 6-point strategy against drugs, and included increased support to law enforcement as one of those points. According to this morning's Washington Post, the President said, "There is going to be a cost, and we are going to have to find that money somewhere." The Speaker and the Minority Leader have said the same thing.

I urge you to get H.R. 5267 into the chain of consideration for the omnibus effort.

H.R. 5267

U.S. Customs Service Drug Interdiction Enhancement Act of 1986

Salaries and Expenses (over FY86):	
◦ Personnel-	
329 positions- air program (incl. 67 for communications centers)	$20.0 million
100 positions for the marine program	$ 6.0 million
400 positions for Southwest border drug enforcement	$20.0 million
30 positions for Headquarters Air Staff	$ 1.5 million
20 positions for Headquarters Marine Staff	$ 1.0 million
(Subtotal, salaries	$48.5 million)
◦ Expenses-	
Voice privacy and HF single sideband secure radios	$40.0 million
Drug enforcement vehicles (1,800, including 300 new and 1,500 replacement)	$ 1.8 million
Electronic and acoustic sensors and transponders, for air and marine interdiction	$ 1.0 million
Marine Interdiction:	
10 utility boats	$ 2.0 million
30 interceptor boats	$ 2.0 million
4 lighter-than-air vehicles	$12.0 million
U.S./Bahamas Drug Interdiction Task Force:	
70 air officers and radar operators	$ 3.0 million
Training and support for Bahamian drug interdiction officers	$ 1.0 million
40 Bahamian officers	$ 1.0 million
Training for new air and marine positions at Federal Law Enforcement Training Center, Glynco, GA	$ 4.0 million
(Subtotal, equipment	$67.8 million)
(Total S&E	$116.3 million)
Operations and Maintenance, Air Interdiction Program:	
◦ Command, Control, Communications and Intelligence Centers (Sector Operations Centers located at Miami, FL, Houston, TX, and March AFB, CA; and one National Center in Oklahoma City, OK)	$87.0 million
◦ Modify 4 P-3 aircraft with APS-138 360° radar	$82.5 million
◦ 8 high endurance tracker aircraft with APG-66 radar and FLIR	$40.0 million
◦ 2 high speed interceptor jet aircraft	$10.0 million
◦ U.S./Bahamian Drug Interdiction Task Force:	
6 high endurance tracker aircraft with APG-66 radar and FLIR	$30.0 million
Communications enhancements	$ 1.0 million
6 twin engine pursuit helicopters	$18.0 million
(Total O&M	$268.5 million)

Chairman GIBBONS. I want to commend you for the excellent testimony you have just given and for your sincere and long-term interest in this problem. I will make sure that my staff looks at 5267 and prepares an amendment for me, and I would urge you to be present, if you can, on Thursday when we mark this up. Perhaps working together we can get the committee to adopt something like your proposal here for additional personnel. I think it is past due and I am glad that you have pushed it as hard as you have.

I ask my staff now to work with Mr. English and to work with the ideas that he has here so that his proposal could be added to what we have here now. We will attempt to amend it when we mark up on Thursday. We will work with you to coordinate the times and everything else.

Mr. Downey.

Mr. DOWNEY. Mr. Chairman, I, too, want to congratulate Mr. English. I think it is fair to say that he is the one person in the Congress for whom this has not been a fad, but an ongoing effort, and I commend him for it, and in particular his leadership. Again, we have had a long-running discussion about what sort of air assets we want to buy, and I notice on page 6 of your breakout of some of the assets. Mr. Crane and I are concerned about the P-3 aircraft. You wouldn't have any objection to us just striking the P-3 and negotiating a possibly different mix of aircraft, would you?

Mr. ENGLISH. I have no problem at all. I think that the critical point that we are going to have to look at with regard to that issue has to be the radar itself. The APS-138 is a critical radar. It is a look-down type radar, one that the Navy uses. There are several different versions that are used on the E2C. This particular one does the job over land. The other versions do not. They work well over sea but not over land, because of the ground clutter issue. I think we could probably work out some kind of mix so far as the platform that we actually use.

Mr. CRANE. Would you yield?

Mr. DOWNEY. I would be happy to yield.

Mr. CRANE. I am just curious, Glenn. Could not some of this air-interdiction program be handled by our military? You know, I have been down to Eglin and those guys are out there on maneuvers covering the gulf all the time, and on simulated combat, you name it. It just strikes me that we have got aircraft in the general area that is not being utilized. I mean they need the training. They need the experience.

I am just wondering if there is not a coordinated way in which a big chunk of the air-interdiction program couldn't be handled by, say, the Air Force. I don't know, Pensacola being a training base probably is limited, but the fact that we have bases there and people flying every day, it would be good for them and for the country.

Mr. ENGLISH. That has been broached in the past. In fact, there is some of that activity taking place. We have AWACS out of Oklahoma City, in my home area. That is the training base for AWACS where they are stationed. They do any time they are doing training missions down in the South, the southern border region, and they have certain tracks that they utilize for that purpose. They are supposed to be on the lookout for drug smugglers. As I said, many times it doesn't make a whole lot of difference because Customs doesn't have anything to respond with. They don't have an aircraft to go up.

Mr. CRANE. The command center certainly would address that. I see the necessity for that, and even air interdiction, with jet interceptors.

Mr. ENGLISH. I think you are getting into an area that I think may cause some difficulty, because obviously if you send a jet interceptor up to take on a two-engine Cessna, is the jet interceptor going to be able to fly slow enough to keep up and have enough fuel to keep up with the guy. As far as overall cost, is that the most efficient way to respond to that kind of threat?

The third thing, even when the smuggler comes down and lands, is the jet supposed to land and try to take this guy on? It is not likely. So, from a practical standpoint, there are all kinds of reasons why that runs into trouble. There are an awful lot of assets that the military has that could be of great help. Up until this point we have gotten some dedicated missions out of AWACS.

For instance, they do six a month that are dedicated missions for this purpose, and they say beyond that that the combat readiness of AWACS, because of the limited number of those aircraft that they have, would be damaged. The Navy is presently providing us with 75 hours of E2C missions per month. Usually that is in the south Florida area that they provide it but, quite frankly, that is a very small amount of time each month in which you have any detection capability. And keep in mind that is only in certain areas.

You may have it in south Florida or you may have it in the gulf, and that leaves other areas of the border wide open. That needs to be integrated and that is the reason, as you said—you are right, that is the reason they need a command and control center to bring all of these resources and integrate them so that you do have a complete system. You are able to use the military any time they have got a training mission, and that is scheduled in advance. We are doing that 6 months in advance right now. Any time that that schedule is done it is worked out between Customs and the military, so some of that can be done.

There is another one, a proposal that we have that is before the Armed Services Committee, which also brings in the National Guard, and we think that that is going to provide a tremendous amount of potential, if nothing else than providing for transportation for State and local law enforcement officials to be a bust team. Mexico is being used as a staging area. We have dry lakebeds south of El Paso right now that are just about full-blown airports.

We have got guys flying in from the United States, land, refuel, buy whatever drugs they want, they take off, they fly through this area. I am talking about these gaps that we have got in our radar screen. And they can fly just about anyplace they want to in the entire United States. We need to activate the National Guard. Let them carry local law enforcement, and arrive on the scene, and make those kinds of arrests. We can use that. And the National Guard Association has made recommendations along that line, and we have incorporated that in the proposal we have before the DOD.

Mr. CRANE. Thank you.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Thank you.

Mr. Chairman, we are indebted to you for giving this committee the advantage of all of your experience. This committee has jurisdiction over Customs. The drug business has been incidental. We have received some criticism on the way it does its customs work.

I am not sure we know enough about what Customs does in the drug area even to be critical, but there is some suspicion that it is not the best agency nor is it trained in the best way to be the drug-fighting agency. Your suggestion places heavier reliance on the Customs Service and authorizes a hell of a big buildup in 1 year. I guess our question is, from your observation of the service, can they do it? I am not sure.

Mr. ENGLISH. Right. Let me say first of all I would agree with your observation whether this is the way it ought to be done. The problem that we have got right now, according to law, is the responsibility is Customs, whether they like it or not.

Mr. FRENZEL. I assure you they like it. It depends on how they handle it.

Mr. ENGLISH. According to the way the executive branch is set up, air interdiction and interdiction at the border is the responsibility of the Customs Service, and until that is changed, obviously, this is the only game in town. The Coast Guard has the responsibility at sea. Customs also has some responsibilities in there, but that is a different matter.

I would agree with what you are saying, and for that very reason the Government Operations Committee this morning reported out another one of the proposals that we had, which in fact requires the President, within a 6 month period of time, to report back to the Congress whether or not there should be a reorganization of the war on drugs, whether it should be looked at and considered, whether it can be done a different way.

Let me say there is an even better reason than the one that you brought up for that. That is because of turf battles. I think every Member of Congress is familiar with the bickering back and forth among Federal agencies over who is doing what. It comes up on budget. Commissioner von Raab couldn't tell you how much in the way of cocaine they interdicted. One of the reasons is because you have got two or three different agencies that are claiming it. Everybody is running up their own total so when it comes to Congress it makes it look good on the budget.

Mr. FRENZEL. You have got a quadruple body.

Mr. ENGLISH. That is right. It is the old body count issue. That is the reason we felt it was important for the President to look at this and assess it and report to Congress, and we have an opportunity to evaluate it. Right now that is the only air interdiction we have got. Customs has the total responsibility and if they don't do it, then it means that we are open on the streets of this country.

The next line of defense, so to speak, is going to be with investigations with DEA, but that means it is already here in this country, it is most likely cut up and broken up and is being sold on the streets. I would suggest that this problem is vital enough, we quite frankly are going to have to touch all the bases, and if it makes sense to do something with the Customs air and marine branch, the interdiction thing—if that is something that needs to be done, then let the President come forth with his views on it and let us in Congress then work that over and digest it.

Mr. FRENZEL. I am inclined to agree with you that we need one agency. We have seen in the rapid deployment forces, that the services don't even talk to each other, and I think it is unwise to expect that somebody can coordinate four or five agencies to actually carry out some sort of very precise interdiction operation. I believe that one agency should do it. I guess it has got to be Customs, but you are talking about quadrupling the number of personnel they have got——

Mr. ENGLISH. For instance, let me give you an example. At the present time the administration is transferring personnel from Florida, from the Southeast, and other areas around this Nation, to the southwest border, because we have got a problem at the southwest border.

Well, now, what that means is we are going to be more vulnerable in the Southeast, whether it is Florida or anyplace else. That is not acceptable, a stopgap thing of moving people from one region to another. That isn't going to cut it. It is that simple.

We have got a situation which—we ran into this last year. The Congress provided four detection aircraft. They are P-3's. They were borrowed aircraft from the Navy that already existed. They took an F-15 radar out of an F-15 fighter and installed it in a P-3. That gives a look-down radar. It is a limited thing, in range, but you know it is better than nothing. It gives you detection capability. That is better than going up with the binoculars that I mentioned.

Last year, we found out the Customs Service didn't hire the folks to fly it, and so we had a P-3 sitting out in Tucson, Davis-Monthan Air Force Base at Customs headquarters there, that nobody was flying. Although we didn't have any detection capability they weren't even utilizing it. The second P-3 that they had out there for the whole western part of the United States, in December they had one of the crew members that took leave. He went home for Christmas, and that grounded the whole operation, so we didn't have any detection capability in that whole region.

Folks, that is not a war on drugs. If this thing is serious enough to really get all the table pounding and all the rhetoric that I have heard here in Congress and heard from I guess Presidents, Democrats, Republicans, every way you want to cut it, that is a pretty sorry excuse for a real war on drugs. And if we are serious about it—and I think both Republicans and Democrats are, I think the President is—by golly, let's address those kinds of problems, and let's go after it. Let's deal with it.

For each item that is contained in this list, we have the hearings and we have the background to back it up. That is the reason I was delighted to hear the chairman say he wanted us to get together with staff because we will document each and every one of these.

Mr. FRENZEL. Again, I am grateful to you for your experience. I guess what bothers me is that we have people in Treasury who think if you add 100 IRS agents, each one will bring in the amount of money that a 25-year veteran has brought in in the last year or two, and of course that is absolutely absurd.

Mr. ENGLISH. I agree.

Mr. FRENZEL. I guess what bothers me is that we are getting cranked up awfully fast. It would be I think unwise of us to expect that we can crank up to peak efficiency in any less than an intermediate term, 3- to 5-year kind of thing, so we can look for increasing expenditures in the future.

Chairman GIBBONS. Except I don't think we can wait 3 to 5 years. It isn't there.

Mr. ENGLISH. Can I stress one point? Most of the cost we are talking about here is one time items. It is equipment. That is what we are providing. Personnel, you are right. Out of the $384 million we are talking here, $51 million of it is recurring. It is going to be personnel, added personnel to operate the equipment that is there. But on the other side of this, we are talking about education, and I think the President is right on that. I think a lot of Members of Congress are stressing education. That is going to be a long-term effort.

Pardon the pun, but there is no quick fix to the drug problem. It is something that is going to take effort. It is going to take time, and it is going to take money. I would suggest to you that under the circumstances we will probably get the quickest result, the quickest result, from what we are talking about here. The other is certainly much longer.

Mr. FRENZEL. The last question. Is this the minimum we can authorize to expect the maximum return?

Mr. ENGLISH. If you are looking for a full court press, yes.

Mr. FRENZEL. Thank you very much.

Mr. Chairman, I yield the balance of my time. I thank the gentleman.

Chairman GIBBONS. I appreciate the gentleman's questions. They are good questions and I know his concern. I guess I am just a fortunate American; I have never had any brush with drugs, nor, so far as I know, has any member of my family, so it is sort of a unique thing, but I am convinced that it is doing serious damage to my area of the United States, and to law enforcement as a whole, and frankly, Mr. English, I am ready and willing to go all the way with you on this.

I would hope that I can get some bipartisan support for it, but I want to bring it up in committee. If Customs is not the right place to put it, as far as I am concerned, funds are transferable; they could be moved to Coast Guard or some other new agency. We could provide that in the bill, Mr. Frenzel.

Mr. FRENZEL. If the gentleman will yield, I have already agreed with the distinguished chairman, who is testifying, that that is the only place we can put it.

Chairman GIBBONS. Yes, and we need to get the people trained. You could train most of these people. You may have a little trouble with some of the pilots but you could get most of them trained within 6 months, and on the job. There are plenty of people out there to be recruited. I am constantly besieged by young men and women who are coming into my office who are college graduates who need jobs, and all of them want to come up here and do public relations work.

Mr. FRENZEL. You can recruit among textile workers, Mr. Chairman.

Chairman GIBBONS. I could supply all the people that you are talking about here, college graduates. That many people come to see me a year for jobs, and so I am convinced that there are lots of people out here that would do this work. It is needed work, and as I say, my ancient experience of defending the Mexican border in World War II, in 1941, I believe it leads me to believe it takes an awful lot of people to do it.

I have been to the Mexican border a number of times, and I have to agree with my governor, who has called me twice in the last 2 days, Mr. English, to encourage me to support your efforts, Governor Graham. We have lost control of our borders. We have seriously lost control over them as far as immigration is concerned, and even more seriously, as far as the introduction of contraband, and I am ready to put an end to it.

Mr. ENGLISH. I appreciate that.

Chairman GIBBONS. I am ready to take to the floor a tax that will support this bill, too. Any tax anybody wants to suggest to me, if it is at all reasonable, I am willing to put it on.

Mr. ENGLISH. Thank you, Mr. Chairman. I would say simply that any assistance that we can be to this committee we would be delighted to help out, and I would also point out very quickly that the measure that we have introduced does have bipartisan support, both Democrats and Republicans. We have sent out a dear colleague, and quite frankly, we have had a huge response to it. So I think you are going to have lots of Members on both sides.

Chairman GIBBONS. Fine. I again would express my invitation for you to join me and the committee when we mark this up, and help in any way you can. I think we have only a very modest start here as far as the committee's bill is concerned. We are going to get it on a bipartisan basis if I have to choke a bunch of people to make them get it on a bipartisan basis. We are going to bring something out that can be financed.

Mr. ENGLISH. I will be here Thursday, Mr. Chairman. Thank you.

Mr. FRENZEL. Thank you.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

[Submission for the record follows:]

STATEMENT OF HON. WYCHE FOWLER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

I would like to begin by commending the leadership on both sides of the aisle for this truly bipartisan effort to address the epidemic of drug use in this country. The "War on Drugs" is clearly one we must fight as a united force and I am especially encouraged that the President has recently made this problem one of his priorities.

It is estimated that over 150 tons of cocaine entered the United States in 1985, almost double the volume of traffic in 1984. The corresponding rise in use has resulted in a 300% increase in cocaine related deaths nationally from 1981 to 1984. With the increasing popularity of crack, an inexpensive and highly addictive freebase form of cocaine, these numbers are expected to accelerate dramatically. The problem of drug use is not confined to any one region, race, or socioeconomic group; it affects every community as well as our national strength.

I wholeheartedly support the effort to forge a comprehensive omnibus drug resolution and believe that the Ways and Means Committee has responded to the leadership's call with an exceptional piece of legislation. While it focuses on just one aspect of what must be a multi-faceted assault on drug trafficking, I believe this bill effectively promotes advances in the important areas of customs enforcement and international cooperation in reducing drug production.

The first portion of H.R. 5310, the International Drug Traffic Enforcement Act of 1986, provides the most dramatic revamping of U.S. Customs Law since the 1930's. By updating customs procedures and requirements, H.R. 5310 places the burden upon the smuggler to conform to more stringent reporting and registration requirements. One of the most important revisions is the upgrading of penalties, many of which were almost insignificant. In all, ten types of civil and criminal penalties are increased by the legislation, dramatically raising the potential costs to smugglers.

The circumstance under which forfeiture penalties can be imposed are also expanded to include violations of smuggling laws whether or not drugs were found on board and mandatory forfeiture of merchandise imported contrary to law. In many cases, forfeiture proceedings would require only judicial or administrative ruling rather than admiralty proceedings. These reforms are expected to expand the revenue received by the Customs Forfeiture Fund and the bill authorized both increased expenditures from the Fund and new enforcement activities which can be undertaken with revenue from property forfeitures.

The second section of the bill would put teeth in the President's efforts to work with other nations to halt overseas drug production and transport. Any country which is a direct or indirect source of illicit drugs and has not cooperated with the United States Government to prevent these illicit drugs from significantly affecting the United States would be designated an "uncooperative drug source nation" and denied most favored nation or any other trade or tariff preference. The President must remove the designation of "uncooperative drug source nation" before any trade preference can be restored.

It is high time that we recognize the flood of illegal drugs into our country as a serious threat to our security. We must put other nations on notice that we will not continue to ignore their tacit support of illegal drug traffickers and that they cannot expect to maintain a friendly relationship with this country while supporting a large threat to our stability.

I am proud to count myself among the original cosponsors of H.R. 5310 and as one of the earliest supporters of an omnibus piece of legislation to attack the drug problem. In addition, I would direct the committee's attention to H.R. 4625, the Airport Security Legislation which I introduced early this year. By granting law enforcement officers the right to search persons presenting themselves for boarding and packages presented for shipping, H.R. 4625 would provide a way to get at the drug couriers or "mules" who now make use of commercial airways. It is currently being considered by the Public Works Committee for inclusion in their portion of the House's Omnibus Drug Proposal.

I

99TH CONGRESS
2D SESSION

H. R. 5310

To facilitate the enforcement of the customs laws against illegal drug traffic, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1986

Mr. ROSTENKOWSKI (for himself, Mr. RANGEL, Mr. GIBBONS, Mr. PICKLE, Mr. STARK, Mr. JONES of Oklahoma, Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. GEPHARDT, Mr. DOWNEY of New York, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. MATSUI, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mrs. KENNELLY, Mr. DONNELLY, Mr. COYNE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To facilitate the enforcement of the customs laws against illegal drug traffic, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Drug Traffic Enforcement Act".

TITLE I—AMENDMENTS TO THE TARIFF ACT OF 1930

Subtitle A—Reference to the Tariff Act of 1930

SEC. 101. REFERENCE.

Unless otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a part, section, subsection, or other provision, the reference shall be considered to be made to a part, section, subsection, or other provision of title IV of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.).

Subtitle B—General Provisions

SEC. 111. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c); and

(2) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(n) PROHIBITED AND RESTRICTED.—The terms 'prohibited' and 'restricted', when used in connection with the importation of merchandise, are interchangeable and refer to merchandise (including controlled substances and spirits, wines, and other alcoholic liquors)—

"(1) the importation of which is not legally permitted; or

"(2) which may only be imported under certain conditions or with certain permits or other documents, and such conditions have not been complied with, or such permits or documents were not lawfully obtained.".

SEC. 112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may designate.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall, incident to the reporting of arrival under this section, present to customs officers such documents, papers, or manifests as the Secretary may by regulation may prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, after arriving in the United States or the Virgin Islands, a vessel or aircraft may not, and after arriving in the United States a vehicle may not—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

except in accordance with regulations prescribed by the Secretary.".

SEC. 113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433(a), (b), or (c);

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the true facts;

"(3) to violate section 433(e);

"(4) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(5) to fail to comply with, or violate, any regulation prescribed under any section referred to in paragraphs (1) through (4).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who violates any provision of subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who willfully violates any provision of subsection (a) is, upon conviction, liable for a fine of not more than $2,000, or imprisonment for 1 year, or both;

except that if the vessel, vehicle, or aircraft has on board, or is discovered to have had on board, any prohibited merchandise (other than sea stores or the equivalent for conveyances other than vessels), such individual is liable for a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.

"(d) Additional Civil Penalty.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise shall be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of the controlled substances listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) Increase in Penalties for Departure Before Report or Entry.—Section 585 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 114. INCREASE IN PENALTIES FOR UNAUTHORIZED UNLADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify customs and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) Unlawful Acts.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false documents or paper to a customs officer under subsection (a), (b), or (c) without revealing the true facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) Civil Penalty.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) Criminal Penalty.—In addition to being liable for a civil penalty under subsection (f), any individual who willfully violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $2,000, or imprisonment for not more than 1 year, or both.".

(b) Repeal.—Section 460 is repealed.

SEC. 116. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended by striking out "required to be kept under section 508 of this Act" wherever it appears.

SEC. 117. PENALTIES FOR FALSITY OR LACK OF MANIFEST.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "(1)" after "GENERAL RULE.—",

(B) by striking out "(2) If any of such merchandise so found" and inserting "(b) SPECIAL RULE IF CERTAIN ILLEGAL SUBSTANCES FOUND.—If any of the merchandise described in subsection (a)",

(C) by striking out "(3)" and inserting "(c) SEIZURE AND FORFEITURE.—If any of the merchandise described in subsection (a)",

(D) by striking out "$500" wherever it appears and inserting "$1,000"; and

(E) by striking out "$10", "$25", and "$50" wherever they appear and inserting "$200", "$500", and "$1,000", respectively; and

(2) by striking out subsection (b);

SEC. 118. PENALTIES FOR UNLAWFUL UNLADING AND TRANSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "Customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 119. AVIATION SMUGGLING.

Part V is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States unlawfully.

"(b) AT SEA TRANSFER OF PROHIBITED MERCHANDISE BETWEEN UNITED STATES CONVEYANCES.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between—

"(1) an aircraft that is owned by a citizen of the United States or is registered in the United States; and

"(2) a vessel of the United States as defined in section 3(b) of the Anti-Smuggling Act (19 U.S.C 1703(b)).

"(c) OTHER AT SEA TRANSFERS OF PROHIBITED MERCHANDISE.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between any aircraft and vessel, regardless of the nationality of either, under circumstances indicating the intent of the transfer is to make it possible for any of such merchandise to be introduced, or attempted to be introduced, into the United States unlawfully.

"(d) CIVIL PENALTIES.—Any person who violates subsection (a), (b), or (c) is liable for a civil penalty equal to twice the value of the prohibited merchandise involved in the violation, but not less than $10,000.

"(e) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (d), any person who willfully violates subsection (a), (b), or (c) is, upon conviction—

"(1) liable for a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, if none of the prohibited merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000, or imprisonment for not more than 20 years, or both, if any of the prohibited merchandise involved was a controlled substance.

"(f) SEIZURE.—Any vessel or aircraft used in connection with, or in aiding or facilitating, any violation of subsection (a), (b), or (c), whether or not any person is charged in connection with such violation, shall be seized and forfeited in accordance with the customs laws.

"(g) PRESUMPTIONS AND PRIMA FACIE EVIDENCE.—The following acts, if engaged in within 250 miles of the territorial sea of the United States, shall—

"(1) for purposes of subsection (c), be presumed to constitute circumstances indicating that the intent of the transfer is to make it possible for the merchandise, or any part thereof, to be introduced into the United States unlawfully; and

"(2) for purposes of subsection (f) and section 595a, be prima facie evidence that an aircraft or vessel was used in connection with, or in aiding or facilitating, a violation of subsection (a), (b), or (c) or section 595a, as the case may be:

"(A) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law or regulation.

"(B) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law or regulation.

"(C) The failure to identify correctly the vessel by name or country of registration, or the aircraft by registration number and country of registration, when requested to do so by a customs officer or other government authority.

"(D) The external display of false registration numbers, false country of registration, or false vessel name.

"(E) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(F) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(G) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(H) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 120. SEIZURES.

Section 594 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be subject to seizure for forfeiture under the customs laws for violations relating to merchandise contained in—

"(1) baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(2) the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge, participated in, or had knowledge of, the violation or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any prohibited merchandise is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on the conveyance, but not in the cargo;

the conveyance shall be seized, and after investigation, forfeited unless it appears to the satisfaction of the Secretary or his designee, that neither the owner or operator, master, pilot, or other person in charge, nor any of the officers, petty officers, or cabin attendants of the conveyance knew, or by the exercise of the highest degree of care and diligence could have known, that such prohibited merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The phrase 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that it will be released, the conveyance shall be liable for the costs and expenses of the seizure and detention.".

SEC. 121. SEARCHES AND SEIZURES.

Section 595(a) (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—If any officer or person authorized to make searches and seizures has cause to suspect the presence in any dwelling house, store, or other building or place of—

"(1) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(2) any property which is subject to forfeiture under any provision of law enforced or administered by the Customs Service; or

"(3) any document, container, wrapping, or other article which is evidence of a violation of any law enforced or administered by the Customs Service,

he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant; except that if any house, store, or other building or place in which any merchandise or other article subject to forfeiture is found is upon, or within ten feet of, the boundary line between the United States and a foreign country, such portion thereof as is within the United States may be taken down or removed.".

SEC. 122. FORFEITURES.

Section 595a (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of"; and

(2) by adding at the end thereof the following new subsection:

"(c) Any merchandise introduced or attempted to be introduced into the United States contrary to law shall be seized and forfeited.".

SEC. 123. DISPOSITION OF PROCEEDS OF FORFEITED PROPERTY.

Section 613 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605 of this Act, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 124. COMPENSATION TO INFORMERS.

Section 619 (19 U.S.C. 1619) is amended—

(1) by striking out "of 25 per centum" each place it appears and inserting in lieu thereof "of not more than 25 percent";

(2) by striking out "which shall be paid out of any appropriations available for the collection of the revenue from customs" in the first sentence;

(3) by striking out the fourth sentence;

(4) by inserting "as an expense of such forfeiture" after "Treasury under the provisions of this section" in the third sentence; and

(5) by inserting the following sentence after the second sentence: "Notwithstanding any other provision of law, any amount paid as an award of compensation under this section shall be paid from the net amount recovered before such net amount is deposited in the general fund of the Treasury or the Customs Forfeiture Fund, as appropriate.".

SEC. 125. COMMENCEMENT OF ACTIONS.

Section 621 (19 U.S.C. 1621) is amended by inserting at the end thereof the following sentence: "For purposes of this section, an action to recover a pecuniary penalty is considered to have been commenced when the appropriate customs officer issues a penalty notice.".

SEC. 126. FOREIGN LANDING CERTIFICATES.

Section 622 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V is amended by adding at the end thereof the following new section 628:

"SEC. 628. EXCHANGE OF INFORMATION.

"The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) verify the accuracy of information provided to the Department of the Treasury or the Customs Service that is used in making determinations concerning the classification, value, country of origin, quota allocability, admissibility, or other characteristics of imported merchandise that relevant to the laws and regulations enforced or administered by Customs Service;

"(3) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(4) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(5) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

SEC. 128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws and regulations in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections;

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

SEC. 129. COMMERCIAL COVERS.

Part V is further amended by adding at the end thereof the following new section:

"SEC. 630. AUTHORITY TO CONDUCT COMMERCIAL COVERS.

"(a) IN GENERAL.—The Commissioner of Customs may establish and conduct commercial entities such as corporations, partnerships, sole proprietaries, and other business entities as commercial covers to support the investigative activities of the Customs Service. Such commercial entities may be established only upon written certification by the Commissioner, or his designee, that the commercial cover is necessary to the conduct of authorized investigative activities.

"(b) NATURE OF COMMERCIAL COVERS.—The establishment and operation of commercial entities under this section shall be in accordance with prevailing commercial practices so long as such practices are not inconsistent with the purposes of the commercial cover. The laws applicable to Federal appropriations, Federal property management, Federal acquisitions, Federal employment, and government corporations shall not apply to the establishment and operation of commercial covers upon the written certification by the Commissioner of Customs, or his designee, that the application of such laws would risk the compromise of the commercial cover.

"(c) TREATMENT OF FUNDS.—(1) The Commissioner of Customs, or his designee, may deposit and withdraw funds appropriated for the Customs Service used to conduct commercial cover and funds generated by the business entities authorized by this section in banks or other financial institutions.

"(2) Funds generated by such business entities may be used to offset necessary and reasonable expenses incurred by the commercial cover. As soon as practicable, funds generated by a commercial cover that are no longer necessary for the conduct of that commercial cover shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) TERMINATION OF COVERS.—Upon the liquidation, dissolution, sale, or other final disposition of a commercial cover established and conducted under the provisions of this section, the funds, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.".

SEC. 130. INVESTIGATIONS; OATH; SUBPENAS; ETC.

(a) AMENDMENT.—Part V is further amended by adding at the end thereof the following new section:

"SEC. 631. INVESTIGATIONS; OATHS; SUBPENAS; WITNESSES; EVIDENCE; PRODUCTION OF RECORDS; TERRITORIAL LIMITS; FEES AND MILEAGE OF WITNESSES.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary, is necessary and proper to—

"(1) the enforcement of any law relating to the importation or exportation of any merchandise;

"(2) the reporting of monetary instruments, transactions, or transportation under chapter 53 of subchapter II of title 31, United States Code; or

"(3) the enforcement of the Bank Secrecy Act (Public Law 91-508);

the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United

States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPENA; PROOF OF SERVICE.—A subpena of the Secretary may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) CONTEMPT PROCEEDINGS.—In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpena of the Secretary. The court may issue an order requiring the subpenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation and to pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpenaed person is an inhabitant or where he may be found.".

(b) Repeal.—The Act entitled "An Act to authorize subpenas in connection with the enforcement of the narcotic laws, and for other purposes", approved August 11, 1955 (21 U.S.C. 967-969), is repealed.

SEC. 131. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the 15th day after the date of the enactment of this Act. Any amendment made by this subtitle that imposes or increases a civil or criminal penalty applies only with respect to violations committed on or after such 15th day.

Subtitle C—Customs Forfeiture Fund

SEC. 141. CUSTOMS FORFEITURE FUND.

(a) Amendment.—Section 613a (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1992";

(B) by inserting "(including related investigations)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund shall be available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service; and

"(iii) the carrying out of special and undercover customs law enforcement operations."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987, not more than $20,000,000.

"(2) At the end of each 3-year period consisting of—

"(A) fiscal years 1984, 1985, and 1986; and

"(B) fiscal years 1987, 1988, and 1989;

any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of the period consisting of fiscal years 1990, 1991, and 1992, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist. The Secretary may, at his discretion, make deposits from the fund into the general fund of the Treasury more frequently than the close of the 3-year periods referred to in the preceding sentence.".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. TREATMENT OF HOVERING VESSELS.

Section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a) is amended by inserting after "hovering vessel" the following: "or to have received merchandise while in the customs waters beyond the territorial sea or while on the high seas,".

SEC. 202. RECREATIONAL VESSEL LICENSES.

Section 12109(b) of title 46, United States Code, is amended by adding at the end thereof the following new sentence: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 203. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer, shall, at the time of executing any of the powers conferred upon him, make known, upon being questioned, his character as an officer of the Federal Government, and has authority to demand any person to assist him in the making an arrest, search, or seizure authorized by any law enforced or administered by customs officers, where such assistance may be necessary. Any person who, without reasonable excuse, neglects or refuses to assist a customs officer after proper demand under this subsection is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person, not an officer or employee of the United States, who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 204. AMENDMENT TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended to read as follows:

"SEC. 1009. POSSESSION, MANUFACTURE OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

"(a) It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or III—

"(1) intending that such substance be unlawfully imported into the United States or into waters within a distance of twelve miles of its coast; or

"(2) knowing that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of its coast.

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to manufacture or distribute or possess with intent to manufacture or distribute a controlled substance.

"(c) This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.".

TITLE III—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE DRUG SOURCE NATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Narcotics Control Trade Act".

SEC. 302. ANNUAL DETERMINATIONS AND DESIGNATION OF UNCOOPERATIVE DRUG SOURCE NATIONS.

(a) ANNUAL DETERMINATION.—The President shall determine if any foreign country, during any fiscal year commencing after September 30, 1986—

(1) was a direct or indirect source of one or more illicit narcotic and psychotropic drugs and other controlled substances that is significantly affecting the United States; and

(2) did not cooperate with the United States Government in preventing narcotic and psychotropic drugs and other controlled substances from significantly affecting the United States by—

(A) limiting legal narcotic crop production to levels required for legal purposes;

(B) licensing legal narcotic crop production and effectively controlling it to prevent significant diversion to the illicit traffic;

(C) limiting the legal manufacture of narcotic and psychotropic drugs and other controlled substances to levels required for medical purposes and effectively controlled manufacture to prevent significant diversion to the illicit traffic;

(D) effectively detecting and eradicating the illicit cultivation of narcotic crops, and

(E) effectively suppressing the illicit manufacture, processing, and traffic of narcotic and psychotropic drugs, under the control of the Single Convention of Narcotic Drugs of 1961 as amended by the 1972 Amending Protocol or the Controlled Substances Act of 1970 or the Convention on Psychotropic Substances of 1971.

(b) DESIGNATION.—A foreign country with respect to which an affirmative determination is made under subsection (a) is designated as an uncooperative drug source nation for purposes of this title.

(c) REPORT OF DESIGNATIONS.—The President shall submit to each House of the Congress the name of each country that is designated as an uncooperative drug source nation under subsection (b). The submission must be made on the first day on which both Houses are in session after the close of the fiscal year with respect to which the designation is made.

SEC. 303. DENIAL OF NONDISCRIMINATORY AND PREFERENTIAL TARIFF TREATMENT TO PRODUCTS OF UNCOOPERATIVE DRUG SOURCE NATIONS.

The products of a foreign nation that is designated as an uncooperative drug source nation are not eligible to receive—

(1) nondiscriminatory treatment (most-favored-nation treatment); or

(2) tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing for preferential tariff treatment;

during the period that—

(A) begins on October 1 of the fisal year occurring after the fiscal year with respect to which the determination regarding that country was made under section 302(a); and

(B) ends on the day on which the designation is terminated under section 304.

SEC. 304. TERMINATION OF DESIGNATION.

If the President considers that an uncooperative drug source nation has made significant progress, and will continue to make progress, in remedying those acts, programs, or policies on which the designation under section 302 was based, the President may terminate the designation. The President must immediately notify each House of Congress of each termination of designation made under this section.

SEC. 305. DEFINITION.

For purposes of this title, the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given that term in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

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